



SERVICES POLICY REVIEW



LESOTHO





SERVICES POLICY REVIEW



LESOTHO



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FOREWORD

For many years, the United Nations Conference on Trade and Development (UNCTAD) has been emphasizing the importance for developing countries of strengthening and diversifying their service sectors. Since 1990, the share of services in the national gross domestic product (GDP) in developed countries grew from 64 per cent to 72 per cent. By contrast, in developing countries, the share of services in GDP grew from 46 per cent to 50 per cent, with services accounting for 37 per cent of formal employment. These figures suggest a large untapped potential for developing countries to advance the development of their service sectors.

The Accra Accord states that “The services economy is the new frontier for the expansion of trade, productivity and competitiveness, and for the provision of essential services and universal access”. The Accord calls upon UNCTAD to assist developing countries and countries with economies in transition to establish regulatory and institutional frameworks and cooperative mechanisms to strengthen the capacity, efficiency and competitiveness of their services sector, and to increase their participation in global services production and trade, including by “providing support in national services assessment and policy reviews”. UNCTAD developed its tailor-made Services Policy Reviews (SPRs) in response to the Accra Accord. The Doha Mandate reiterates that the development of, and access to, services, supported by adequate regulatory and institutional frameworks, are important for sound socio-economic development. UNCTAD members have therefore requested UNCTAD to continue its work on services.

The services sector in the Kingdom of Lesotho is the largest sector in the economy, with a share of GDP of 59.7 per cent in 2010. This share has, however, declined over the last two decades (from 62.4 per cent in 1990) as the contribution of industry has expanded. The Lesotho SPR focuses on three areas within the services sector, namely tourism, and financial and professional medical services.

In conducting the SPR, UNCTAD undertook a desk study on the services sector of Lesotho. The desk study recommended that national services development strategies should be developed through participative consultations at the national level with all key actors, including parastatal institutions, potential foreign and domestic investors, the private sector, labour groups and academia. This will not only ensure buy-in and support, but will also generate desirable spill-in and spill-over effects among related economic sectors. The study also suggested that a master plan, which outlines not only national strategies but also defines a process and series of practical steps through which strategic objectives should be pursued. These strategic objectives should be based on a national consultation process and should provide a strategy for developing the services sector and services trade to maximize the expected development gains. The recommendations of the desk study aim to assist the Government of Lesotho in its development of such a master plan and in its determination of the way forward in terms of pacing and sequencing of further trade policy and sector reforms.

A team of experts, with support from UNCTAD, engaged with a broad group of stakeholders from the Government, industry, academia and civil society to identify challenges and opportunities in the three sectors. The stakeholders were involved through interviews and questionnaires, and provided inputs to the report. They also participated actively in two national workshops, the second of which served to validate the findings of the SPR report as well as to refine and adopt horizontal and sector-specific recommendations, in addition to discussing which national entities could be responsible for leading the implementation of each adopted recommendation.

The UNCTAD team worked closely with Ms. Mary Motebang, Director of Trade, Ministry of Trade and Industry, Cooperatives and Marketing as well as with His Excellency Ambassador Mothae Anthony Maruping and Mr. Moshe Kao of the Permanent Mission of the Kingdom of Lesotho to the United Nations Office in Geneva.

The review process included an analysis of the following elements: current policy framework for tourism; financial and professional medical services; regulatory and institutional challenges inhibiting sectoral development; national development objectives; prospective policy options to strengthen domestic supply capacity and small and medium-sized enterprise (SME) competitiveness; the potential impacts of services and services trade liberalization on sectoral foreign direct investment (FDI), SMEs, efficiency, employment, access to foreign markets and universal access to basic services.

The resulting wide-ranging recommendations from the SPR are set out in detail in the body of this report and include cross-sectoral recommendations that are designed to strengthen the services sector broadly. The recommendations address the following fields:

- The development of a national services development strategy plan;
- An investigation of ways to improve infrastructure services that support the services sector, including the instigation of innovative financing models and public–private partnerships;
- An exploration of ways to boost the employment creation impact of the main service sectors in Lesotho;
- The adoption of competition law and establishment of a competition authority;
- Enactment of a comprehensive investment code;
- Improvement of Lesotho’s business climate through the implementation of the new Companies Act (2011);
- Further efforts to eliminate red tape and simplify regulatory processes and procedures;
- Greater use of district bodies, authorities and structures in the promotion of tourism, monitoring and evaluation of health professionals;
- Provision of financial services;
- The securing of access to other markets.

The report also includes recommendations and an action plan specific to each of the three sectors analysed in the review.

I hope that the contents of this publication will contribute to providing a strategic vision for the development of Lesotho’s services sector, and assist the country to continue to derive development benefits from trade in services.

A handwritten signature in black ink, appearing to read 'S. Panitchpakdi', with a stylized flourish at the end.

Supachai Panitchpakdi
Secretary-General of UNCTAD

EXECUTIVE SUMMARY

Increasingly, services production and trade is moving to the forefront of government agendas in the world. Boosting services trade is seen as a way to develop economies, boost employment creation and alleviate poverty. However, inadequate laws and policies, and inefficient institutions hamper countries' abilities to take full advantage of the benefits of services trade. The UNCTAD Lesotho Services Policy Review (Lesotho SPR) aims, inter alia, to investigate policy, regulatory and institutional weaknesses, and to make recommendations addressing such deficiencies in the sectors of tourism, and financial and professional medical services.

Today, Lesotho's services sector is the biggest contributor to national GDP and it has shown resilience even in the wake of the global economic crisis. As the dominant sector in the economy, the services sector has great potential to generate sustainable growth and create employment opportunities in Lesotho in the future.

Lesotho's trade in services, measured in terms of export flows, has been expanding since 1995. Despite this increase, the relative performance of Lesotho's services exports has been poor in comparison with the country's total merchandise exports over the past two decades. Furthermore, Lesotho remains a net services importer.

In the financial services sector, despite relatively high levels of financial inclusion, the majority of financial and non-financial institutions in Lesotho are based in urban areas (mostly in Maseru), with only limited access to financial services in the country's rural areas. Women, in particular, are facing great difficulty in accessing credit. However, the differences in access to financial services between urban and rural locations have been addressed, to some extent, through the presence of informal financial services such as unregistered moneylenders. Nevertheless, in order to enhance the contribution of the financial services sector to the national economy, it is clear that there remains a need to improve the current levels of access to financial services in Lesotho. This situation could be addressed in part by the adoption of microfinance legislation in Lesotho to support the creation of microfinance institutions which would diversify the financial services sector.

Turning to the professional medical services sector, although progress has been made in the provision of health services to the Basotho people, limited capacity within Lesotho's health sector remains a major challenge to addressing and combating the spread of diseases such as HIV and AIDS, and tuberculosis. This problem is exacerbated by the fact that 80 per cent of the Basotho population live in remote rural villages, often several hours away from the nearest clinic. The development and expansion of professional medical services can play an important role in addressing these issues. Some progress has been made in this regard. Specifically, with the exception of dentists, the numbers of doctors, pharmacists and paramedics in Lesotho have all grown steadily since 2005. Despite this, the health sector in Lesotho is confronted by a scarcity of skills in the medical and allied professions. Lesotho continues to suffer from a brain drain of skilled Basotho medical professionals, precipitating imports of doctors from Nigeria and the Democratic Republic of the Congo, and an influx of private practitioners from South Africa to fill the gaps. Furthermore, the country ranks poorly in terms of the density of health personnel for every 1,000 members of the population in comparison with other countries in Africa. Among the possible remedies are the implementation of a retention strategy to avoid the exodus of health care professionals out of the country, and the establishment of a medical school and of more training institutions for nurses which offer high level qualifications.

The tourism sector in Lesotho has been promoted as a key element of strategies for national development. Tourism has significant potential to contribute to economic growth and employment generation in Lesotho. The labour-intensive nature of the sector means that it can create many direct and indirect jobs. In turn, the sector boasts a number of backward and forward linkages with other economic sectors. The sector is already an important contributor to GDP and employment – with close to 36,000 people employed directly or indirectly in the sector. Despite the potential of the tourism services sector, its recent performance – characterized by stagnating growth – has been constrained by limited progress in diversifying source markets of arriving tourists, as the country continues to rely heavily on the South African market. A number of areas require attention in order to boost the contribution of the tourism services sector to the national economy. These include the need to distinguish Lesotho from key competitor destinations, develop new tourism products and diversify the country's

tourism product base. There is also a need to create an enabling environment for rapid tourism growth, improve visitor access to and within Lesotho, and establish appropriate policy, planning, and legal frameworks to manage the tourism sector in the country.

The laws in the financial, professional medical and tourism services sectors are generally outdated and they are not keeping pace with current global developments. This is particularly so with respect to the professional medical and tourism service sectors, in which gaps in existing legislations are wide and need urgent attention. Encouragingly, however, there are concerted efforts in both sectors to remedy these shortcomings. In comparison, the financial services sector benefits from more comprehensive and up-to-date regulations, although there are still some important areas that are devoid of regulation (for example, micro finance and consumer protection). A few pieces of legislation in the financial sector are also undergoing amendments so that they can address new challenges.

Generally, policies are shallow across the three sectors as legislations are being adopted without a proper policy framework. The institutions mandated to support and develop these three sectors suffer from almost identical problems of underfunding, inadequate staffing and being effective outside the capital city because of centralized offices. Some face hindrances to their efficacy due to legislation that does not empower them to act decisively in matters of supervising and taking disciplinary action.

Services liberalization under the Southern African Customs Union (SACU) is non-existent and, although it is envisioned under the Southern African Development Community (SADC), negotiations are still in the very early stages. Most of the liberalizations have taken place at the multilateral level under the General Agreement on Trade in Services (GATS), where Lesotho has liberalized its economy extensively yet has not reaped many benefits from doing so. This liberalization needs to be considered within a comprehensive, integrated and coherent strategy of growth, development and trade, accompanied – where necessary – by further sectoral development planning and macroeconomic, social, investment, competition, and environmental policies.

The Lesotho SPR recommendations include the need to improve the investment climate so as to attract more domestic as well as foreign investment to develop services. There needs to be greater coordination of cross-sectoral institutions for greater impact on services growth. Improved infrastructure is critical to the development of all of the three services sectors. With respect to trade, Lesotho should concentrate on securing access to other markets (beginning with those of its SADC trading partners) and advance in the implementation of regional initiatives that may have a positive impact in strengthening regulatory and institutional frameworks underpinning services trade.

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This publication was prepared by a team led by Mina Mashayekhi, Head, Trade Negotiations and Commercial Diplomacy Branch (TNCDB) of UNCTAD. The team included TNCDB staff members and experts based in Lesotho and South Africa. Staff members of TNCDB who participated in the drafting of this report are Martine Julsaint Kidane, Luisa Rodriguez and Mesut Saygili. Experts included Tsotang Tsietsi based in Maseru and Dr. Milford Soko, Founding Director of Mthente Research and Consulting Services (Pty) Ltd and Associate Professor at the University of Cape Town Graduate School of Business. Inputs were also provided by the research team at Mthente Research and Consulting Services under the direction of Neil Balchin, Programme Manager, Senior Researcher and Consultant at Mthente.

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ACRONYMS AND ABBREVIATIONS

ACP	African, Caribbean and Pacific Group of States
AGOA	African Growth and Opportunity Act
ALAFA	Apparel Lesotho Alliance to Fight AIDS
BEDCO	Basotho Enterprises Development Corporation
CBL	Central Bank of Lesotho
CGF	Credit Guarantee Fund
CHAL	Christian Health Association of Lesotho
CMA	Common Monetary Area
DOE	Department of Environment
EIA	environmental impact assessment
EPA	economic partnership agreement
FDI	foreign direct investment
GATS	General Agreement on Trade in Services
GDP	gross domestic product
HSA	health service area
IMF	International Monetary Fund
LCT	Lesotho Council for Tourism
LDC	least developed country
LEAP	Lesotho Enterprise Assistance Programme
LHWP	Lesotho Highlands Water Project
LNDC	Lesotho National Development Corporation
LRA	Lesotho Revenue Authority
LTDC	Lesotho Tourism Development Corporation
MDG	Millennium Development Goal
MFA	Multifibre Arrangement
MFDP	Ministry of Finance and Development Planning
MLG	Ministry of Local Government and Chieftainship
MOFDP	Ministry of Finance and Development Planning
MOHA	Ministry of Home Affairs
MOHSW	Ministry of Health and Social Welfare
MPWT	Ministry of Public Works and Transport
MTEC	Ministry of Tourism, Environment and Culture
MTICM	Ministry of Trade and Industry, Cooperatives and Marketing
NGO	non-governmental organization

NMDS	National Manpower Development Secretariat
SPR	Services Policy Review
OBFC	One-Stop Business Facilitation Centre
PSCEDP	Private Sector Competitiveness and Economic Diversification Project
PHC	primary health care
RSCG	Rural Savings and Credit Group
SACCO	Savings and Credit Cooperative
SACU	Southern African Customs Union
SADC	Southern African Development Community
SARB	South African Reserve Bank
SATSA	Southern African Tourism Association
SME	small and medium-sized enterprise
SMME	small, medium and micro enterprise
SPR	Services Policy Review
TDA	tourism development area
TNCDB	Trade Negotiations and Commercial Diplomacy Branch (UNCTAD)
UNCTAD	United Nations Conference on Trade and Development
UNWTO	United Nations World Tourism Organization
WHO	World Health Organization
WTO	World Trade Organization
WTTC	World Travel and Tourism Council

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SERVICES POLICY REVIEW



I

INTRODUCTION

Trade in services has become increasingly important to both developed and developing economies. Since the 1980s, world trade in services has expanded at a faster rate than that of merchandise trade and, today, many developed economies produce more services than goods. Services account for approximately 70 per cent of GDP and employment in developed countries and approximately 50 per cent of GDP in developing nations. Although trade in services currently accounts for only 20 per cent of global trade, it has been predicted that, by 2050, global services exports will exceed global merchandise exports. The growing importance of services trade is also reflected in the growth of liberalization agreements containing commitments relating to services.

Efforts to boost trade in services are important for developing countries, which tend to be heavily dependent on the import of services. Were these countries to open up their markets to foreign services, their consumers would perhaps benefit from access to lower priced, higher quality services of a greater variety such as telecommunications, business and professional services. The opening up of markets may also allow these countries to benefit from increased inflows of investment, skills and expertise. Moreover, trade in services can increase employment creation and income generation, both of which are critically important for poverty reduction. Furthermore, developing countries can profit from services trade by increasing exports of their own services and the gains from trade can be channelled towards supporting developmental efforts.

Recently, the onset of the global economic crisis has raised the profile of the services sector as a tool for driving economic growth and development. In broad terms, the global economic crisis has challenged prevailing economic orthodoxies and has led to a reconsideration of the role of globalization as a driving force for growth and employment. The crisis has underscored the need for active policies (requiring a greater role of the state, working in collaboration with the private sector, civil society and other relevant stakeholders) to foster profound structural changes in production, consumption and trade patterns. In this sense, to counter the debilitating effects of the crisis, countries have adopted measures to promote the long-term competitiveness of industries and enhance human capital development, while at the same time seeking to identify and produce new products and enter new markets.¹

In the midst of the global economic crisis, services exports proved to be relatively more resilient and less volatile than merchandise trade. Globally, during 2008–2009, the services sector grew at a rate of 9.3 per cent even as the agriculture and industrial sectors recorded a steep decline.ⁱ This suggests that efforts to develop domestic and export-oriented services industries can play a meaningful role in ensuring that economies are more resilient to external shocks and facilitating diversification into new markets and exports. More generally, a vast body of research undertaken by UNCTAD clearly demonstrates that services can contribute significantly to enhancing productivity and economic competitiveness.

Given the enabling and driving role that governments typically play in the development of service economies, it is useful for policymakers to devise national services development strategies.ⁱⁱ Moreover, to ensure buy-in and support, as well as to generate desirable spill-in and spill-over effects among related economic sectors, the development of these strategies should take place through participative consultations at the national level with all key actors – including parastatal institutions, potential and existing foreign and domestic investors, labour groups and academia. The inclusion of the latter two are particularly relevant for the development of services strategies given the need to ensure adequate labour transformations and the enhanced levels of human capacity needed to support growth of the services workforce.

Mindful of this, UNCTAD SPRs are designed to assist countries to improve their regulatory and institutional frameworks and utilize trade policies as an instrument to advance national objectives and interests. Through a sectoral approach to development that focuses on specific service sectors, the national SPRs can play an instrumental role in providing policymakers, regulatory authorities and other stakeholders with an important technical understanding of the dynamics of particular services sectors in an economy and the issues currently confronting these sectors. In turn, this can form the basis for the development of effective reforms to the regulatory and policy frameworks that underpin these sectors. Ultimately, this can pave the way for policy reforms that advance both sectoral objectives and broader national economic and social interests.

The Government of Lesotho – through the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM) – with the assistance of UNCTAD, has

initiated the Lesotho SPR. The intention of the SPR is to:

- Conduct a national services survey with a view to assessing the current state of development in the services sector;
- Identify achievements, weaknesses and challenges in specific services subsectors;
- Identify or determine policy options, including regulatory, institutional and sector-specific trade policy reform measures that can enhance the contribution of services to the advancement of national developmental objectives;
- Articulate ways to ensure the sustainability of the development gains occasioned by services sector reforms, including through their contribution to the achievement of the national Millennium Development Goals (MDGs);
- Identify specific measures aimed at strengthening capacities to effectively engage in services trade negotiations.

This report has been developed in close communication and collaboration with the MTICM and a broad range of national government, business and civil stakeholders. The report is designed to help these stakeholders meet four primary objectives:

- Manage the services reform process;
- Ensure sustainable development gains through services reform, including through the service sectors' contribution to the achievement of the national MDGs;
- Strengthen capacities related to services trade negotiations;
- Monitor results achieved through reforms in the services sector.

A. METHODOLOGY

The research process underpinning the Lesotho SPR began with the preparation of a desk study by UNCTAD. This study was used as the basis for discussion at the National Stakeholder Workshop staged in Maseru on 29–30 September 2011. This multi-stakeholder workshop provided a platform for discussions that focused on issues and challenges currently confronting key service sectors in Lesotho and proposals on strategic approaches, policy advances and trade liberalization reforms in specific service sectors.

Thereafter, a national team of experts embarked on a research process that involved both extensive desktop research and engagement with key stakeholders in Lesotho. The former drew on the content of the UNCTAD desk study, together with a comprehensive body of statistics, reports, previous studies, policy documentation, statutes, regulations and laws. In turn, the engagement process was conducted through a total of 42 interviews with a wide range of stakeholders based in Lesotho. These included interviews with representatives of the MTICM, the Lesotho Tourism Development Corporation (LTDC), the Ministry of Health and Social Welfare (MOHSW), the Central Bank of Lesotho (CBL), the Departments of Tourism and the Environment, the Ministry of Finance and Development Planning (MOFDP), the Basotho Enterprises Development Corporation (BEDCO), the Apparel Lesotho Alliance to Fight AIDS (ALAFA), the National University of Lesotho, the Lesotho Revenue Authority (LRA), the Lesotho Enterprise Assistance Programme (LEAP) of the Private Sector Competitiveness Project and various sector operators.

The research findings by the experts were presented during the second National Stakeholder Workshop, held in Maseru on 19–20 January 2012. This workshop provided the opportunity to critically review SPR findings and conclusions relevant to policy and obtain further inputs from stakeholders. Discussions led to further refinement and validation of recommendations to be submitted to the Government and other relevant actors. The recommendations should provide the basis of strategies for the development of the service sectors and also for the identification of concrete actions and benchmarks for further services reforms and of the responsibilities of specific stakeholders in this regard.

B. SECTORAL COVERAGE

As an initiator of this process, the MTICM has determined three service sectors to form the focus of the SPR. Specifically, the review is confined to the following three key service sectors in Lesotho:

- Financial services;
- Professional medical services;
- Tourism services;

These sectors have been identified by the MTICM as holding the potential to contribute significantly to the future growth and development of Lesotho's economy.

C. STRUCTURE OF THE PUBLICATION

The remainder of the report is structured as follows: chapter II presents an economic overview of the broad services sector in Lesotho. This is followed in chapters III, IV and V by comprehensive assessments of the financial, the professional medical and the tourism service sectors, respectively. In each case, an economic overview of the sector in question is presented, focusing on the contribution of the sector to the national economy, the economic performance of the sector, trends in trade and investment in the sector, and the sector's linkages with other sectors within the Lesotho economy. For each of the sectors, the economic overview is followed by

an inventory of legislation, regulations, institutions and policy measures, regulations governing sector operators, an analysis of the participation of foreign service providers in the sector, trade liberalization commitments affecting the sector, and an analysis of the existing strengths, weaknesses, opportunities and threats characterizing the sector in Lesotho.

Finally, in chapter VI, a set of recommendations are presented based on the findings drawn from the desktop research and consultative engagements with key stakeholders. The recommendations are separated into a series of general recommendations applicable to the services sector as a whole, together with recommendations specific to each of the three service sectors.

SERVICES POLICY REVIEW



III

ECONOMIC PANORAMA

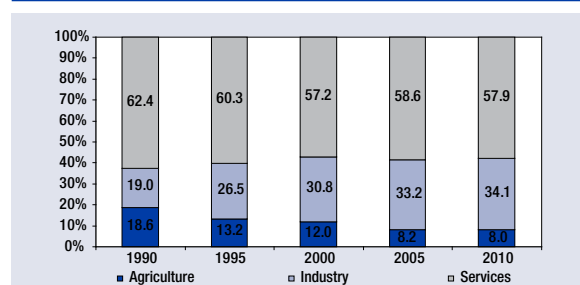
Lesotho boasts a highly open economy in spite of having only limited natural resources and a narrow production and export base. The country's main exports are ceramics, clothing, inedible crude materials, cut diamonds, footwear and footwear components, furniture, miscellaneous manufactured goods and wool. In turn, its primary imports are cereals, electricity, food ingredients, machinery, medicines, miscellaneous manufactured goods, and oil and petroleum products. The ratio of exports and imports in goods and services as a percentage of national GDP in Lesotho averaged 163 per cent over the period 2007–2009. Meanwhile, in 2009, Lesotho ranked 127th and 121st among world merchandise exporters and importers, respectively, while it occupied 154th place among world exporters and importers in services.² Small, landlocked and mountainous, Lesotho relies on remittances from Basotho employed in South Africa, customs duties from SACU,³ and exports for the majority of government revenue.

The services sector is the biggest contributor to Lesotho's GDP (figure 1). However, its relative contribution to national output has been falling during the last two decades as the contribution of industry (including manufacturing, electricity, water, mining and construction) has expanded, rising from 19.0 per cent in 1990 to 34.1 per cent two decades later in 2010.³ At the same time, the relative importance of agriculture in Lesotho's economy and its contribution to national GDP has declined steadily over the same period, to the point where it is clear that Lesotho's economy is no longer agriculture-based, despite the fact that the majority of Lesotho's population continue to live in rural areas (estimated at 80 per cent in 2010)⁴ and most of the labour force is engaged in subsistence agriculture, especially livestock herding. The contribution of agriculture to national GDP fell from 18.6 per cent to 8.0 per cent, while the share of manufacturing increased from 9.6 per cent to 18.6 per cent from 1990 to 2010. Over the same period, the contribution of the services sector to national GDP fell from 62.4 per cent in 1990 to 57.9 per cent in 2010.

In conjunction with the decline in the relative importance of the agriculture sector in comparison with other key sectors in the economy, the deteriorating performance of the sector can also be explained by drought and land degradation. The role of mining has also declined, evident in the steady decline in the number of mineworkers in Lesotho over the past several years. On the other hand, there has been significant development of industrial and manufacturing activities and the country represents one of the few countries in

sub-Saharan Africa that has gone through a significant process of industrialization.

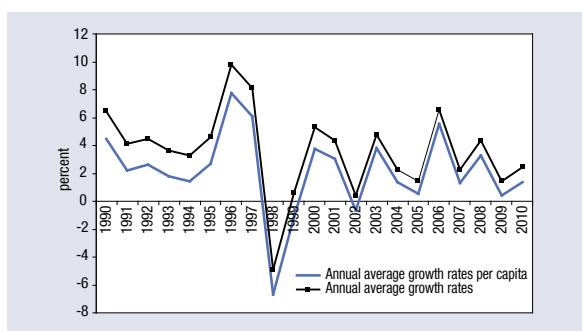
Figure 1. Sectoral composition of national GDP in Lesotho, 1990–2010



Source: UNCTADstat for 1990–2005 figures and UNData for 2010 figures.

Lesotho's economy has grown steadily, if unspectacularly, since the late 1990s. Over the ten-year period from 1998 to 2008, Lesotho's average annual GDP growth rate was 3.2 per cent. In turn, Lesotho recorded real per capita growth that averaged 2 per cent between 1991 and 2007 – an above average figure for sub-Saharan Africa. These average growth rates do, however, mask significant fluctuations in the growth of both real GDP and GDP per capita. This can be explained, in part, by the fact that Lesotho's growth path has been closely linked to the external environment, weather conditions and the strength or weakness of the South African rand, to which the Lesotho loti is pegged.^{iv} Real GDP rose 6.7 per cent in 2006, driven by booming diamond production, a recovery of the garment industry and good performance in the agriculture and service sectors. Drought returned in 2007 and agriculture's contribution to GDP growth was negative. Mining, the garment industry and construction remained vibrant, and overall GDP growth of approximately 2.3 per cent was achieved. GDP growth rebounded somewhat in 2008 to approximately 4.4 per cent but was much lower in 2009 (1.1 per cent), with contractions in the manufacturing and mining sectors stemming largely from the effects of the global economic crisis. Thereafter, however, economic growth in Lesotho rebounded to 2.4 per cent in 2010 and it is expected to recover further to 3.1 per cent in 2011 and to 4.1 per cent in 2012⁵ as new diamond mines start production and construction is boosted by the second phase of a regional water project.

The fluctuations experienced in GDP growth in Lesotho since 1995 are illustrated graphically in figure 2, which outlines Lesotho's real GDP growth rate and per capita

Figure 2. Lesotho's total and per capita real GDP growth rates, 1990–2010

Source: UNCTADstat.

real GDP growth rate (based on constant 2005 prices) for the fifteen-year period between 1995 and 2010.

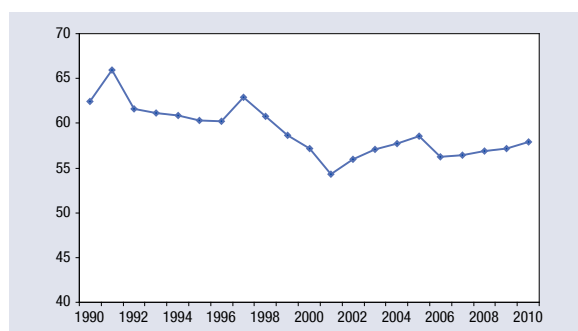
It is estimated that Lesotho's current-account deficit will deteriorate from 19.3 per cent of GDP in 2010 to 23.8 per cent of GDP in 2011, before narrowing slightly to 13.9 per cent of GDP in 2012 as current transfers from SACU recover and exports increase.⁶

A. ECONOMIC OVERVIEW OF LESOTHO'S SERVICES SECTOR

Historically, the services sector has played a dominant role in Lesotho's economy. Over the twenty-year period between 1990 and 2010, the average contribution of the services sector to total GDP was around 60 per cent (figure 3).⁷ The share of the sector had fallen considerably from around 65 per cent at the beginning of the 1990s to under 55 per cent at the beginning of the 2000s. The sector then bounced back up to 58 per cent in 2010. Though the current share of services in GDP is still less than in the early 1990s, there are a number of services providers operating informally and thus the sector's real contribution to the economy could be considerably higher.

Nevertheless, despite the recent decline in the contribution of the services sector to national GDP, growth within the broad sector has been resilient, even in the wake of the global economic crisis. Indeed, between 2008 and 2009 the services sector exports grew at a rate of 9.3 per cent.⁸ Despite this, according to the World Trade Organization (WTO), Lesotho remains a "net importer of services".⁹

In terms of individual contributions to national GDP, the main service sectors in Lesotho are education, wholesale and retail trade, financial intermediation, public

Figure 3. Total services sector value added as a percentage of GDP, 1990–2010

Source: UNCTADstat.

administration, and transport and communication. Data on the contribution of these sectors to national GDP are available for the period 2003–2006 (table 1), and show that education services made the largest relative contribution to GDP in Lesotho, with the sector's share expanding marginally from 9.5 per cent in 2003 to almost 10 per cent in 2006. This was followed closely by wholesale and retail trade services, whose contribution to national output remained relatively stable at 8.5 per cent in 2003 and 8.1 per cent in 2006. Over the same period, the equivalent contribution of financial intermediation services increased from just above 7 per cent in 2003 to 8 per cent three years later.

Table 1. Contribution of key service sectors to GDP in Lesotho, 2003–2006

Services sector	Percentage GDP			
	2003	2004	2005	2006
Education	9.5	9.5	9.4	9.9
Wholesale and retail trade	8.5	8.2	8.0	8.1
Financial intermediation	7.9	7.3	7.5	8.0
Public administration	7.2	7.2	7.1	6.8
Transport and communication	4.9	5.1	5.5	5.6

Source: International Monetary Fund (IMF) (2008).

In addition to these sectors, construction is regarded as the most dynamic services sector in Lesotho. Construction growth peaked in the 1990s as a result of the Lesotho Highlands Water Project (LHWP). Government procurement is now the main source of growth in the sector and is expected to be boosted by the initiation of major works for phase 2 of the LHWP. According to government projections for 2008/2009–2013/2014,^v infrastructure service sectors such as construction, finance, transport and communication^{vi} are expected to grow well during the period.

Growth in the development of infrastructure services is much needed in Lesotho. Infrastructure services are an important component of the supporting environment for many service sectors. Worryingly however, the current state of infrastructure in Lesotho has been described as below par even in comparison with other low-income countries and the SACU economies. This may stem, at least in part, from insufficient levels of investment in infrastructure in Lesotho. For instance, an international benchmarking study of infrastructure performance in Lesotho in the areas of electricity, water and sanitation, information and communication technology and roads (transportation) found limited investment in infrastructure in spite of the fact that most of Lesotho's capital budget goes towards infrastructural investments, particularly for roads and water supply projects.¹⁰

Table 2. Percentage distribution of formal and informal employment by sector, 2008

Industry	Formal (%)	Informal urban (%)	Informal rural (%)
Agriculture, hunting and forestry	1.5	4.6	3.4
Fishing	0.1	0.0	0.0
Mining and quarrying	0.9	2.1	5.6
Manufacturing	46.2	21.2	27.8
Electricity, gas and water supply	1.8	0.0	0.9
Construction	3.7	15.3	11.4
Wholesale and retail sale	5.4	24.8	4.3
Hotels and restaurants	1.1	1.5	1.4
Transport, storage and communications	2.3	4.6	1.5
Financial intermediation	2.0	1.3	0.7
Real estate, renting and business activities	0.4	0.5	0.1
Public administration and defence	18.7	3.7	15.3
Education	9.2	3.8	20.1
Health and social work	3.8	0.5	4.6
Other community, social and personal service security	2.0	5.6	2.2
Private households with employed persons	0.4	10.4	0.5
Extraterritorial organizations and bodies	0.7	0.0	0.2

Source: The Bureau of Statistics and the Ministry of Finance and Development Planning of Lesotho (2008).

Turning to sectoral employment, data from the 2008 Labour Force Survey (table 2) show that the manufacturing, public administration and defence, and education sectors are the dominant contributors to employment in the formal sector in Lesotho. In contrast, employment in service sectors such as financial intermediation, real estate, renting and business activities contribute only marginally to employment.

1. Services and FDI in Lesotho

Lesotho is open to FDI. The country is often considered to be a success story in terms of its ability to attract export-oriented investments as a least developed country (LDC). With most investment originating from East Asia, FDI in Lesotho is primarily channelled into export-oriented manufacturing, especially in the form of textiles and apparel for the market of the United States of America under the African Growth and Opportunity Act (AGOA) preferences.

In broad terms, Lesotho has maintained an inviting posture to facilitate FDI. Lesotho's investment climate is favourable with regards to currency conversion, monetary transfer policies, and a lack of undue burdens to investors. According to the United States Department of State, the main weakness of the investment climate is an underdeveloped legal framework for investors (particularly regarding business taxation) and the need for land reform.¹¹

In the 1990s and 2000s, Lesotho's economy performed well above average for low- and middle-income countries in terms of attracting FDI. Through FDI flows, Lesotho has been able to take advantage of trade privileges in United States of America markets under the Multifibre Arrangement (MFA) and AGOA since April 2001, thereby kick-starting a rapid process of industrialization.^{vi} However, FDI inflows have been very unstable, as they are very dependent on trade preferences unilaterally conceded by major trading partners and are, therefore, very vulnerable to trade preference erosion.

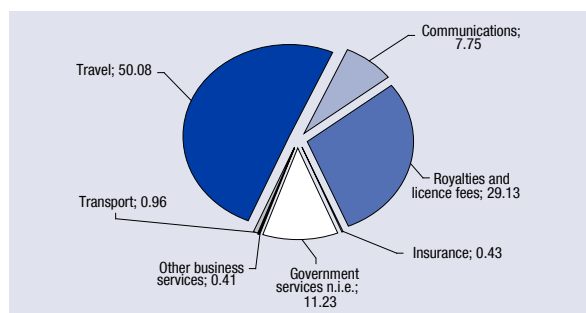
As the dominant sector in the economy, the services sector has great potential to generate sustainable growth and create employment opportunities in Lesotho in the future. Given the size of the economy, much of this potential growth and employment expansion will hinge on the country's ability to attract FDI into the sector. In this respect, the importance of the link between services – particularly business and infrastructure services – and FDI cannot be underestimated.

To date, Lesotho has been successful in attracting FDI into the telecommunications services sector on the back of a high rate of penetration of telecommunications services relative to the country's per capita income.¹² However, in other service sectors, such as the air transportation sector, Lesotho has not been successful in attracting foreign investment to date.

2. The role of services in Lesotho's international trade

Lesotho's main services exports (figure 4) include travel (business and personal travel), royalties and fees,^{viii} and other business services (business and management consulting and public relations services). Although the country's services exports increased during the period 2005–2009, this trend has not been stable. Specifically, over this period exports peaked in 2007 and promptly contracted in 2008, with a particularly severe decline in the travel subsector.

Figure 4. Distribution of Lesotho's trade in services by category (percentage), 2008

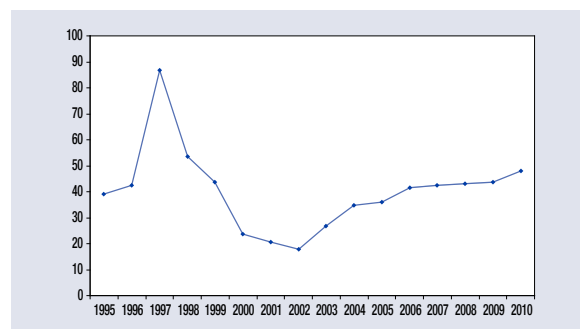


Source: UNCTADstat.

Lesotho's trade in services, measured in terms of export flows, has shown divergent growth paths since 1995. Figure 5 shows that, when measured in current prices and current exchange rates, the value of Lesotho's total services trade expanded from nearly \$39 million in 1995 to almost \$90 million in 1997, before falling below \$20 million in 2002. After that year, Lesotho's services exports rose steadily and reached almost \$50 million in 2010. The recent surge in export flows is likely to have been fuelled by the gradual recovery of the global economy, and supported by investments in infrastructure spearheaded by the Government's focus on infrastructure development and high levels of capital expenditure. Strong growth in the financial, transport and communications service sectors in Lesotho, together with financial services reforms and

innovations to simplify transactions, have also played a part in boosting Lesotho's trade in services.¹³

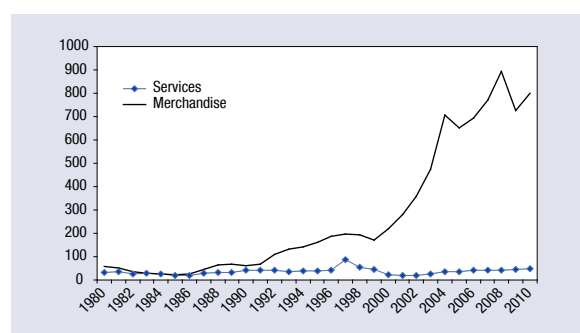
Figure 5. Lesotho's total services trade export flows (\$ million), 1995–2010



Source: UNCTADstat.

Nevertheless, the relative performance of Lesotho's services exports has been poor in comparison with the country's total merchandise exports over the past two decades. Figure 6 shows that services exports have stagnated in comparison with merchandise exports over this period. Indeed, the former accounts for only 5.7 per cent of Lesotho's goods and services exports and 2.4 per cent of GDP, while the latter accounts for 94.3 per cent of total exports and 40.1 per cent of the national income.

Figure 6. Relative performance of Lesotho's services and merchandise exports (\$ million), 1980–2010

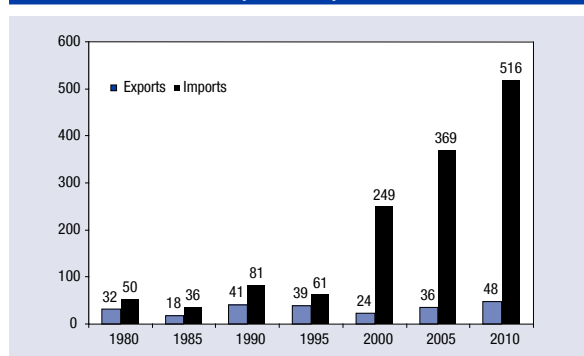


Source: UNCTADstat.

Lesotho is a net-services-imported economy and exports and imports have exhibited divergent paths during the last 30 years (figure 7). While the country's exports of services have remained stagnant during this period, imports have climbed from \$50 million in 1980 to more than \$500 million in 2010. Lesotho's goods and services imports amounted to more than 127 per cent of GDP in 2010, which leads to a \$1.7 billion trade deficit (85 per cent of GDP). Trade in services also plays an important role in widening the

gap between exports and imports, with a \$468 million deficit. In the last five years, the main services imported into Lesotho have included transportation services (particularly freight sea transport) and travel services (education-related expenditure). Much of this dependency on transportation services stems from the fact that the country is landlocked. Lesotho also imports communication services (postal, courier and telecommunication services), insurance services and business services.

Figure 7. Lesotho's services exports and imports, 1980–2010 (\$ million)



Source: UNCTADstat.

B. ECONOMIC GROWTH AND DEVELOPMENT IN LESOTHO

1. Lesotho and the Millennium Development Goals

Lesotho has achieved some success in boosting the provision of basic human services. For instance, Lesotho boasts one of the highest primary school enrolment rates in sub-Saharan Africa (almost 84 per cent). This is due, at least in part, to the Government of Lesotho's adoption of a free primary education policy in 2000, later buttressed by the Education Act (2010), which makes primary education not only free but also compulsory. Public services in Lesotho have also had some positive impact in improving the health and welfare of the Basotho people. For instance, improvements have been registered in terms of increasing access to electricity as well as access to water and sanitation services in villages across the country.¹⁴ With respect to health, in 1979 the Government of Lesotho adopted a primary health care

(PHC) strategy. On the back of this strategy, the country has made remarkable progress in increasing access to health services. However, persistent problems related to severe shortages of staff, poor remuneration packages and equipment have combined to adversely affect the continued and sustainable implementation of PHC in Lesotho.

Furthermore, despite the improvements registered in the provision of basic human services, Lesotho faces numerous developmental challenges. Chief amongst these is the high prevalence of HIV and AIDS, which is the third highest in the world at 23.6 per cent of the adult population.¹⁵ HIV and AIDS are the greatest obstacles to the achievement of the MDGs in the country. Lesotho's social indicators have deteriorated rapidly over the last decade as a result of increased mortality and reduced incomes associated with HIV and AIDS-related deaths.

Furthermore, with limited arable land and a dominance of subsistence-level farming, 25 per cent of the population in Lesotho is vulnerable to food insecurity. Poverty is widespread, with more than half of the population living below the poverty line. Furthermore, extreme inequality in the distribution of income in Lesotho remains a major drawback. Unsurprisingly, within this context Lesotho's position in the United Nations Development Programme human development ranking fell steadily from 134 out of 174 countries in 1995 (United Nations Human Development Report, 1998) to 160 out of 187 countries and territories (United Nations Human Development Report, 2011).¹⁶

At the same time, as a consequence of the global economic downturn, the Government's budget in the next few years will be considerably constrained due to slowdown in inflows of workers' remittances and receipts from the SACU countries, Lesotho's important sources of external income. This situation will make progress on the MDGs more difficult to attain.¹⁷

2. Development and economic priorities of the Government of Lesotho

Lesotho's national development goals and overall economic growth strategies have undergone a series of transformations and structural changes in the last two decades aimed at poverty eradication, attaining self-sufficiency and creating prosperity for the country's citizens. According to the Government of Lesotho, the future development of the country will

be contingent on the capacity of the Government to provide sustained support to the country's developmental initiatives, the country's ability to stimulate local investment and attract FDI, and its improved access to export markets. Within this context, the Government's economic strategy seeks to improve the management of public finances, improve the investment climate and strengthen the financial sector. The Government of Lesotho sees its core economic function as that of a facilitator and promoter of private investment in a framework of flexible planning. In this context, the Economist Intelligence Unit emphasises the paramount role of the Government as a provider of key services, especially in the case of infrastructure.¹⁵

The focus of economic policy is ... on improving the business environment in order to encourage the development of the private sector while emphasizing investment in high-return public infrastructure such as roads and water supply.

These objectives are elaborated in Lesotho's Vision 2020, a key planning document designed to guide the country's long-term development plan. The main elements identified by Vision 2020 are outlined in table 3.

The Government of Lesotho's key development and economic goals outlined in Vision 2020, in the Poverty Reduction Strategy (2004) prepared in partnership with the World Bank, and also in the Interim Poverty Reduction and Growth Facility prepared with the IMF include:

- Employment creation: The establishment and promotion of SMEs play a key role in this respect;
- Sustainable human capacity enhancement through (a) appropriate education and training that is accessible to all, (b) quality health services that

are accessible to all, and (c) the control of HIV and AIDS using a national, multi-sectoral response;

- Improvement of the investment climate.

According to the three strategic documents mentioned above, the goal of sustainable development, growth and prosperity is expected to be achieved by:

- The development of an aggressive programme of entrepreneurship at all levels of the economy;
- The intensification and diversification of agricultural production;
- Economic diversification, which is seen as the way to reduce the potential vulnerability of negative developments in the two main markets, namely South Africa and the United States of America – diversification should take place at two levels – preferential trade and investment market opportunities.

The Government of Lesotho recognizes the need for Lesotho to be competitive in regional and international markets. To achieve this goal, the Government has embarked on plans to improve the country's competitiveness and to increase internal capabilities in the economy's manufacturing, services and agriculture sectors.

Similarly, the National Development Plan, which replaces Lesotho's Poverty Reduction Strategy, sets out the Government's strategic plan for promoting economic growth and reducing poverty. The Plan is set for implementation over the period from 2011/12–2015/16. The financing of the National Development Plan will be from government resources, including donor funds. Some ongoing projects exist, while others are in the pipeline. Gaps are currently being identified both in terms of lacking funds and objectives of the Plan that are not currently addressed by projects/programmes.

Table 3. Key aspects of Lesotho's Vision 2020

Challenges	Increasing levels of poverty, escalating unemployment, environmental degradation, economic and political instability, and the HIV and AIDS pandemic
Weaknesses	Food insecurity, unemployment, poor strategic and operational planning, inadequate research in science and technology, and an underdeveloped small, medium and micro enterprises (SMMEs) sector
Strengths	Government commitment to development, its widely accepted and respected constitution, cultural homogeneity, the electoral system, and high adult literacy
Opportunities	FDI and good relations with the Republic of South Africa
Threats	Brain drain, donor conditionality, decline in mine labour remittances and increasing competition from international markets
Pillars of development	Democracy, unity, peace, education and training, economic growth, management of the environment, and advancement in technology
Factors that are pivotal in Lesotho's development	Political commitment, FDI and public sector management

Source: Government of Lesotho.

The overarching objectives of the National Development Plan are to promote good governance, improve public service delivery and accountability, and reduce poverty. This is to be achieved by:¹⁶

- Pursuing high, shared, sustainable, private-sector-led economic growth that generates employment by:
 - Promoting high levels of private-sector investment by the removal of unnecessary constraints and the development of an investor-friendly and competitive investment climate;
 - Developing legal and regulatory institutions that will support high levels of investment by the private sector and quick decision making by policymakers and licensing authorities;
 - Promoting industrial development and the development of SMMEs;^{xvii}
 - Developing agriculture, tourism, human skills and infrastructure;
 - Reducing social vulnerabilities by enabling the disadvantaged to participate in the growth process and protecting the vulnerable who are unable to benefit from the growth process;
- Fighting HIV and AIDS by promoting testing through the Know Your Status campaign, care and treatment of the infected and affected persons and promotion of protection through education and use of all channels of communication.

Looking to the future, policy reforms and efforts to liberalize trade and regulations within Lesotho's service sectors should be framed within the overarching policy context of the National Development Plan.

3. Existing policies and strategies for enhancing growth and performance in Lesotho's services sector

A thriving services sector is vital for all countries. High rates of investment and economic growth associated with services can contribute to poverty alleviation and human development. For this, the right policies need to be in place to overcome supply-side constraints and ensure economy-wide development gains from services and services trade. As for many other developing economies and LDCs, Lesotho, while having moved away from a primary dependence on agriculture, is still largely reliant on manufacturing and remittances. However, it is important for the

country to focus on the services sector as a tool for the diversification of the economy as the country continues on its development path.

Mindful of this, services are a key strategic component of Lesotho's development plan. The Government of Lesotho has acknowledged the need to develop and strengthen the existing services sector in Lesotho and support the expansion of new service sectors. The broad economic priorities and objectives of the Government of Lesotho for the services sector (applicable to all service subsectors) include increasing investment (for example expanding local investment through increased spin-off effects from large-scale export-oriented companies to indigenous small-scale entrepreneurs) and exploring investment potential in the services sector to maximize the country's comparative advantage.

Upgrading and improving legal and institutional frameworks is also a priority. This issue is particularly relevant with respect to licensing procedures and the tax regime, which are viewed as complex and inefficient and favouring manufacturing at the expense of the services sector. Land acquisition and transfer remain complex issues that need further review to facilitate more investment.

The Government of Lesotho already recognizes the importance of key social services (health and education) to underpin the foundations for the development of a good human resource base in Lesotho. In this sense, it seeks to increase the efficiency of, and accessibility to, quality social services, particularly for vulnerable groups (women, children and youths). As a result, expenditure on health and education is expected to grow in the coming years.

In terms of social development in Lesotho, the critical importance of empowering women and girls in the country cannot be overestimated. It is widely acknowledged, most notably by the United Nations, that the empowerment of women represents the most effective tool for development.¹⁷ Empowering women can produce a diverse range of developmental benefits in developing countries such as Lesotho, from raising economic productivity and improving education rates, to reducing infant and maternal mortality.¹⁸ Such empowerment must be underpinned by the provision of:

...primary and secondary education for girls, investing in infrastructure beneficial to women, increasing their role in policymaking and guaranteeing their rights to sexual and reproductive health, property, ownership, inheritance and equality in employment.¹⁹

Lesotho has already developed a National Development Plan that gives priority to women's empowerment, and the country has made notable strides towards improving gender equality through a number of programmes aimed at empowering women.²⁰

Lesotho's Vision 2020 envisages a healthy and well-developed human resource base. Challenges ahead relate to HIV and AIDS and geographic inequalities in the availability of health care due to the country's mountainous terrain, which makes access to health facilities difficult in many rural areas. In this regard, the Government's key objectives in looking to overcome health-related challenges include improving universal access to reproductive health facilities and creating a more equitable distribution of health facilities.

The Government of Lesotho has identified the tourism sector as key in pursuing an export-led economic growth strategy. Indeed, the tourism sector has been recognized as an important source of jobs (including temporary employment through construction works) and foreign exchange. To this end, the Government has identified the following actions as necessary to be able to use this sector as a primary engine of growth and to tap into its potential effectively:

- Upgrading skills in the sector, supporting education to provide the necessary technical and vocational training;
- Creating an enabling environment for private sector investment, particularly with respect to basic infrastructure (road, electricity, communications and water) and providing appropriate incentives;
- Developing sustainable tourism;
- Introducing new regulation, particularly to (a) impose limits on foreign ownership, (b) require training and development of local staff, and (c) reform requirements with respect to land ownership.

Lesotho has also developed a sectoral policy for the telecommunications sector. In this respect, the Government established the Lesotho Telecom Authority in 2000 to promote competition in the sector, protect consumers, advance universal service access and manage the electromagnetic spectrum. The legal framework for telecommunications services is open and progressive. The sector has succeeded in achieving continued expansion and investment in value-added services.

The major policy and regulatory challenges confronting Lesotho in the telecommunications sector relate to

universal access and affordability. Indeed, high tariffs for telecommunications services make it more difficult to enter the knowledge economy and an underdeveloped telecommunications sector also increases costs of other sectors in the economy which use telecommunication services as inputs. To provide an example of the magnitude of the problem in Lesotho, in 2008 less than 2 per cent of households had access to fixed-line services. In addition, in the same year, mobile operators were given a grace period to roll-out services to commercially viable, rural areas. They will now be required to pay 1 per cent of total revenues into a Universal Access Fund to subsidize further expansion.

The Government of Lesotho has also outlined strategies and objectives to strengthen the financial services sector. Currently there are few transnational companies operating in Lesotho. Furthermore, an underdeveloped financial sector has contributed to a lack of access to finance and, hence, remains an important obstacle to business expansion. In addition, insufficient financing is likely to be especially harmful to small local business and start-ups, which cannot rely on parent companies to provide funding. The Government seeks to encourage competition through the provision of more banking, capital markets and insurance services.

More broadly, in the future the Government of Lesotho seeks to develop a strategy to maintain and enhance the performance of specific service sectors within the economy. Lesotho should, therefore, strive to adopt a strategic approach to the development of its services sector based on a review of the current situation and an analysis of areas of potential growth, whilst taking into account limits and possible constraints stemming from the country's endowment in natural and other resources and its current economic and social development status.

A critical element in the development of many parts of the services sector (including tourism, transport, and other services) is the existence and affordability of quality infrastructure (including roads, telecommunications and electricity). The relatively poor infrastructure in Lesotho has certainly contributed to limiting economic growth and social welfare as well as constraining the development of the services sector. A study which sought to carry out an international benchmarking of infrastructure performance in Lesotho (in the areas of electricity, water and sanitation, information and communication technology and roads transportation) found the prevailing situation to be dire, even in comparison with other low-income economies and the SACU countries.

As services are becoming increasingly important in the country, the Government of Lesotho's emphasis on finding ways in which the overall performance of the services sector can be improved is particularly relevant at this point in time. Lesotho is already committed to liberalizing trade and investment in its services sector. In this respect, it has determined the scope and content of its horizontal and sectoral commitments under GATS. Furthermore, the country has demonstrated its commitment to liberalizing services within the SADC, in the context of the negotiations for economic partnership agreements (EPAs) between the African, Caribbean and Pacific Group of States (ACP) and the European Union, and at the multilateral level.

C. NATIONAL TRADE POLICIES FOR THE EXPANSION OF KEY SERVICE SECTORS

1. Lesotho's liberalization commitments under GATS

Since 1995, the entry into force of the Uruguay Round Agreements has facilitated an increase in trade and investment for the service sectors in many countries which undertook specific GATS commitments to open their service economies. Lesotho is a founding member of the WTO. As such, it took commitments on trade in services at the multilateral level for the first time during the Uruguay Round. These commitments were undertaken as part of the first round of multilateral services negotiations which commenced in 1986. It has been documented that the MTICM faced a number of challenges while engaging in these services negotiations. Overall, there was a lack of understanding of the technical aspects of scheduling, and the MTICM did not have much time to meet with stakeholders to discuss policy and scheduling options. Furthermore, while some assistance was received from the WTO secretariat in Geneva, the MTICM felt it was not fully equipped to provide the required guidance to the stakeholders involved in the negotiating process.²¹

Lesotho agreed to undertake very extensive commitments for the liberalization of services. Its specific commitments cover 85 among the 160 subsectors included in the WTO Services Sectoral Classification List.²² These commitments include

the following broad categories: business services, communication services, construction and related engineering services, distribution services, educational services, environmental services, financial services, tourism and related services and transport services. The only sector headings under which Lesotho did not undertake any commitments are health and related social services, recreational, cultural and sporting services, and the catch-all other services not included elsewhere.

The horizontal commitments by Lesotho (affecting all the services included in its schedule of specific commitments) relate to market access commitments for allowing the supply of services in the domestic market through the establishment of a commercial presence by foreign services suppliers (mode 3) and temporary movement of foreign natural persons (mode 4). The commitments indicate that foreign-owned enterprises, including joint-venture enterprises with Lesotho, must satisfy minimum capital outlay and foreign equity requirements. Also, the agency established must have authority to negotiate and conclude contracts on behalf of the foreign parent company.

Finally, the schedule states that automatic entries and work permits are granted for up to four expatriate senior executives and specialized skill personnel in accordance with relevant provisions in the laws of Lesotho. Approval is required for any additional expatriate workers beyond the automatic level. Enterprises must also provide for training in higher skills for locals to enable them to assume specialized roles. As for national treatment offered, Lesotho did not inscribe any condition or limitation in the horizontal section of its schedule. This commitment, although not referring explicitly to intracorporate transferees (ICTs), clearly refers to foreign workers in Lesotho working for a foreign enterprise. The inscription refers to two common categories of ICTs frequently used in WTO members' schedules,^{xiii} namely executives and specialists. It is noteworthy that Lesotho opted not to take commitments in relation to the other categories of natural persons commonly found in members' schedules, including business visitors (or services salespersons) and contractual service suppliers (be they employees of a juridical person or independent professionals).

The commitments taken by Lesotho are rather uncharacteristic of commitments taken by LDCs, which generally were of more limited sectoral coverage

(on average, during the Uruguay Round negotiations, LDCs took commitments in 20 service sectors). Among the challenges that the Government of Lesotho faced was the fact that the GATS was a new agreement and that WTO members lacked experience in drafting the commitments and in coordinating the negotiating process, and there was also a lack of service data upon which to base an analysis of the impact of liberalization commitments. Furthermore, other stakeholders, including the private sector, lacked the knowledge, experience and skills and were poorly organized and therefore not in a position to convey their interests to the Government.^{xiv}

By the Government's own assessment Lesotho has not witnessed significant growth and investments in its services sector even with extensive liberalization commitments under its GATS schedule.^{xv} Some analysts have suggested that "Lesotho's performance on trade in services appears not to have benefited from a liberalization of the market and indeed trade in services has actually been dropping for the past decade... Rather than seeing imports and exports rise following liberalization at the WTO, Lesotho is increasingly marginalized from the global services market".^{xvi}

2. The Doha Round of negotiations

The current round of market access negotiations under Article XIX of GATS, launched in 2000, aims to achieve progressively higher levels of liberalization of trade in services through the reduction or elimination of the adverse effects of measures which hamper trade in order to provide effective market access. These negotiations provide developing countries with an opportunity to achieve commercially meaningful market access commitments in sectors and modes that are of interest to them, and a progressive opening market access consistent with their development situation and priorities. This includes the flexibility to open fewer sectors and liberalize fewer types of transactions. Key objectives for developing countries, including Lesotho, should be to ensure developmental gains from increased services trade (both exports and imports) to contribute to building a competitive services sector and maximize of the overall development of the country.

Accordingly, of the sectors where liberalization is currently possible under GATS, those selected for early liberalization should contribute to the following sector-specific or economy-wide objectives:

Sector-specific objectives:

- Strengthening of the sector itself by introducing competition,^{xvii} efficiency and transfer of technology;
- Locking-in the process of domestic reform;
- Attracting FDI where no or only limited service capacity presently exists;
- Further developing sectors in which the country has achieved some capacity and competitiveness.

Economy-wide objectives:

- Strengthening other goods and service sectors (producer services);
- Infrastructure building;
- Expansion of exports of goods and services;
- Ensuring the provision of high-quality services in the domestic market;
- Attracting services and service providers where only limited capacity presently exists.

Each of the candidate sectors for liberalization should be screened against the above benchmarks by stakeholders. This process also needs to be accompanied by the identification of potential regulatory barriers in major trading partners which may prevent greater outsourcing or delocalization of services of export interest to Lesotho. Moreover, supportive SME policies providing financial incentives – including government-sponsored mechanisms providing start-up financing on attractive and easily accessible terms – to firms in targeted sectors could be designed and put in place to facilitate SME entry and growth.

As a LDC, Lesotho can, however, avail itself of GATS provisions on special and differential treatment which take into account the special situation of developing countries and LDCs. The GATS Articles IV and XIX call for increasing participation of developing countries in world trade, including through the liberalization of market access and in sectors/modes of export of interest to them. However, favourable language on objectives and certain flexibilities do not yet, per se, ensure pro-development outcomes.

Amongst the key development achievements of the sixth WTO Ministerial Conference of 2005 (Hong Kong, China) is the clear acknowledgement that LDCs are not expected to enter into any new commitments in the Doha Round unless they themselves determine

that they wish to undertake such commitments. Furthermore, the recent eighth WTO Ministerial Conference held in Geneva from 15–17 December 2011 saw the adoption of a waiver on preferential treatment to services and service suppliers of LDCs,^{xviii} which allows members to provide preferential treatment to services and service suppliers of LDCs with respect to the application of measures described in Article XVI (market access) and any other measures as may be annexed to the waiver, rather than to like services and service suppliers of other members. A number of conditions must, however, be fulfilled including:

- Any preferential treatment must be granted immediately and unconditionally to like services and service suppliers of all LDC members;
- Preferential treatment with respect to the application of measures other than those described in Article XVI is subject to approval by the Council for Trade in Services in accordance with its procedures and will be annexed to this waiver;
- Each member according preferential treatment pursuant to this waiver shall submit a notification to the Council for Trade in Services;
- Each member granting preferential treatment pursuant to the waiver must, upon request, promptly enter into consultations with any member with respect to any difficulty or matter that may arise as a result of such treatment;
- Any preferential treatment accorded pursuant to the waiver shall be designed to promote the trade of LDCs in those sectors and modes of supply that are of particular export interest to the LDCs and not to raise barriers or create undue difficulties for the trade of any other member.

LDC countries have indicated that mode 4 (supply of services through the temporary movement of natural persons) represents for them one of the most important means of supplying services internationally. They, therefore, requested other WTO members, to the extent possible and consistently with Article XIX of the GATS, to consider undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in two group requests related to this mode of supply.^{xix}

It is important that the Government of Lesotho consider all options available for pursuing trade

liberalization in addition to multilateral liberalization, that is, autonomous liberalization, bilateral, regional and interregional negotiations. Of particular relevance concerning the priority sectors identified by the Government of Lesotho are the ongoing SADC–European Union EPA negotiations and the ongoing services work programme in the context of SADC regional integration.

3. The SADC–European Union EPA negotiations

SADC countries, like other groupings of nations within the ACP framework, are currently negotiating an EPA with the European Union. These negotiations are in the context of the continuation of the Lomé and Cotonou Agreements but differ in the fact that they are to conclude a reciprocal agreement between the parties, departing from the non-reciprocal nature of the earlier relations. Seven of the SADC countries, namely Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa entered into EPA negotiations with the European Union in 2004. However, only five of them initialled an interim EPA with the European Union in November 2007, with Angola and South Africa deciding to become observers to the process. Finally, four of them (Botswana, Lesotho, Mozambique and Swaziland) signed the interim agreement in Brussels in June 2009.

It can be stated that these negotiations are generally relevant for SADC countries as the European Union is the group's largest trading partner. However, European Union imports from SADC focus on few (non-services) products such as diamonds (Botswana), petroleum (Angola), fish and beef (Namibia), sugar (Swaziland) and tobacco. Similarly, the European Union's \$185 million imports from Lesotho in 2010 almost exclusively consisted of diamonds (98 per cent).^{xx} SADC mainly imports from the European Union machinery, vehicles, and chemicals.^{xxi} When it comes to services, the interim EPA mandates the following:

- Cooperation in supply-side competitiveness, stating that this cooperation includes, amongst others, fields such as production, technology development and innovation, marketing, financing, distribution, transport, diversification of economic base, as well as development of the private sector, improvement of the trade and business environment and support to SMEs;

- Cooperation in trade in services, with parties agreeing to cooperate to develop and enhance trade in services;
- Further negotiation of trade in services as the parties agreed to complete negotiations on services liberalization to be undertaken in two stages: (i) a liberalization schedule for one service sector for each participating SADC EPA State (initially set for 31 December 2008); (ii) an agreement to negotiate progressive liberalization with substantial sectoral coverage within a period of three years following the conclusion of a full EPA. Parties also agreed to a standstill as specified in GATS Article V(1)(b)(ii),^{xxii} for all service sectors;^{xxiii}
- Cooperation in services and in particular the European Union party agreed to support capacity building aimed at strengthening the regulatory framework of the participating SADC EPA States, while the parties agreed to define the specific cooperation objectives, principles and procedures that will accompany trade liberalization, by the time of the establishment of the necessary arrangements for the liberalization of trade in services.

The negotiations between the SADC EPA group and the European Union are progressing quite slowly and the parties failed to meet their self-imposed deadlines to conclude negotiations, including those of the end of 2010 and mid-2011. The region is now committed to concluding negotiations on trade in services and investment by 2014. Services are considered to be among the sticking points for the negotiations, especially since some SADC member States fear that undertaking commitments in services beyond what they have scheduled in the WTO may compromise their ability to negotiate in the future or raise inconsistencies with existing commitments. For example, aspects of negotiations such as the definition of the most favoured nation clause, or what is understood by the “substantially all trade” requirement of GATS Article V (economic integration) may preclude the region from undertaking deep bilateral agreements in the future with other South–South trading partners, such as China.

It will be particularly important for countries of the SADC EPA group to ensure that sufficient levels of financial and technical assistance, including for the development of domestic services supply capacities, are provided to the group during the negotiating process and also during the implementation

of the services agreement once it is finalized. Furthermore, in the meantime Lesotho should focus on strengthening and modernizing its institutional and regulatory frameworks (including any gaps or weaknesses identified in this report) so as to ensure that when the agreement with the European Union comes into force any such weaknesses will have been addressed. Finally, the SADC EPA group should immediately begin to put in place, with the support of its private sectors and possibly in conjunction with similar efforts for SADC regional integration, processes for the relevant professional bodies to develop recommendations which can be submitted to European Union counterparts regarding mutual recognition of requirements and qualifications and other measures that will underpin market access commitments, and make them commercially meaningful opportunities for SADC service suppliers.

4. The SADC regional negotiations

Lesotho is equally pursuing regional integration efforts in the area of services within SADC. SADC countries affirmed their intention to liberalize trade in services at the time of the signing of the Trade Protocol in 1996. While work has progressed in various service sectors, including in the case of sectoral protocols and regional institutions (as in the case of tourism), SADC countries have not yet adopted and ratified the stand-alone protocol for the liberalization of services in the region.

A draft protocol has been negotiated which should serve as a basis for negotiations. The region has also identified six key service sectors (construction, communication, transport, energy-related, tourism and financial services) in which liberalization would begin before the liberalization process is then extended to substantially cover all sectors and modes of supplying services. The identified target has been for substantial liberalization of intraregional trade in services to be achieved no later than 2015.

For Lesotho, any trade-related policies and negotiating positions, particularly in the case of SADC regional integration, has to take into account the deep connection of Lesotho’s economy with that of South Africa. For example, most of the services exports by Lesotho were provided to South African consumers, while the majority of Lesotho’s imports of services originate in South Africa.

5. Sequencing and coordination of commitments under various trade agreements

The Government of Lesotho is faced with the difficult challenge of having to decide what pacing and sequencing of trade policy reforms it should adopt, what best practices in the area of services sector development and services trade it needs to espouse, and what level of policy space and complementary policies would be optimal for generating sustained economic growth, poverty reduction and development in the country. The Government will need to identify how coherence can be advanced between trade and trade liberalization policies and other government policies, including social safety nets and pro-poor policies, financial, monetary, technological and labour-market policies in pursuing sustainable development. It will also need to determine the optimal and balanced approach to trade liberalization, including at the regional, interregional and multilateral levels, in order to increase its involvement in international services trade and ensure coherent and beneficial development outcomes.

It is important to begin by a review of its national economic, regulatory, institutional and trade policy environment affecting the services sector, and its competitiveness. Given that the regulatory framework in particular seems to be lacking, or is still relatively

weak, in a number of areas, a thorough process of domestic regulatory review may be an important first step for the services sector. In seeking to achieve this, it is important that the country take advantage of the experiences and lessons learned of neighbouring and other African countries in strengthening and modernizing their institutional and regulatory frameworks, and also the experiences of LDCs in other regions.

Finally, it is also crucial that the Government of Lesotho put in place the necessary processes and procedures for services-related policymaking and trade negotiations. In this regard, it is indeed noteworthy that a National Steering Committee, which was set up to collaborate with the MTICM in the formulation of national negotiating positions, has already become functional. This committee will be instrumental in providing inputs for all the above negotiations. Government must continue to engage the private sector in these processes and procedures since it will be important for the private sector to be involved in further developing and taking part in the services economy. In this regard, it is pertinent to note that although the Government is saddled with the negotiations, ultimately, when negotiations are concluded, it is the private sector that will be looked upon to harness the opportunities therein. A major challenge will be to increase awareness and understanding on trade in services and opportunities (both domestic and for export) among local firms and other relevant stakeholders.

SERVICES POLICY REVIEW



III

FINANCIAL SERVICES SECTOR

The availability of modern and efficient financial services is considered to be a key factor for economic development. While they may not share some of the characteristics of other infrastructure services (which are typically network services), financial services support and underpin growth in the broader economy. They contribute to improving productivity, facilitating domestic and international transactions, broadening the availability of credit for SMMEs and households, mobilizing and channelling domestic savings, facilitating firm entry and competition, attracting FDI and enhancing efficiency. Financial services are also important in providing trade financing to exporters.

Furthermore, the role played by the financial services sector in contributing to the development of key export sectors in Lesotho cannot be overestimated. Financial services can play a critical role in facilitating much-needed export credit, as well as serving as a means to channel investment to build productive capacities that are geared towards expanding and diversifying exports. It is widely acknowledged that the presence of an efficient financial services sector plays an important role in attracting foreign capital into key export sectors – such as the clothing and textile sector in Lesotho. In turn, sustained inflows of foreign capital will play an important role in enabling Lesotho to access global value chains and production networks.

The Government of Lesotho has recognized the importance of the financial intermediation sector in national economic development. Lesotho's Vision 2020 calls for the financial intermediation sector to be diverse and highly responsive to customer demands and needs. Access to credit and good loan management and repayment mechanisms are to be the corner stone for development and promotion of the SMME and informal sectors.

Furthermore, the Government of Lesotho is looking to increase competition in the banking sector and improve access to services for those beyond the reach of the established banking network in the country. Access to finance, particularly in rural areas, is very important as it facilitates the availability of inputs, allows for diversification in products and enhances research and development in modern farming methods and techniques, thereby potentially contributing to poverty reduction. Microfinance institutions, which provide banking services to poor households that do not qualify under the formal banking system, will be important contributors to efforts to grow the offerings of credit to micro-entrepreneurs, SMEs and households.

In this respect, strengthening the financial sector and enhancing access to financial services is one of the key goals of the Government of Lesotho's Medium-term Macroeconomic Programme for 2010–2013, which is supported by the IMF. These reforms include further steps to ensure the supervision of banks and non-banking financial institutions and the establishment of a Financial Intelligence Unit to combat money laundering. It is, therefore, considered a priority that the operations of financial institutions be adequately supervised by the CBL, with the review of legislation and regulations a critical element in ensuring that loopholes are removed and public deposits are protected. Throughout 2010, the Government, together with its development partners, continued to work on reforming and modernizing the financial sector with a view to creating a better regulatory and policy environment, and to expand financial access to entrepreneurs, SMMEs and the poor, particularly in the country's rural areas. The Government continues to support the Lesotho PostBank and the community-based Rural Savings and Credit Groups (RSCGs). With the support of the World Bank the country has embarked on the development of a national policy for non-banking financial institutions along with the revision and adoption of the regulatory and supervisory framework for these institutions.

A. ROLE AND PERFORMANCE OF THE FINANCIAL SERVICES SECTOR IN LESOTHO

The broad financial services sector in the country can be divided into banking and non-banking financial services, with the latter dominated by the insurance subsector. At present, Lesotho's financial services sector consists of more than 75 banking and non-banking financial institutions. In terms of the banking subsector, the country is home to the CBL, four commercial banks (Standard Lesotho Bank Ltd, Nedbank Lesotho Ltd, First National Bank and Lesotho PostBank), and three development corporations (the Lesotho National Development Corporation, BEDCO and the Investment Promotion Unit).²³ The CBL plays a central role in the country's financial sector. It is responsible for supervising both banking and non-banking financial institutions (including commercial banks, moneylenders and insurance companies), and operates as a financial adviser to the Government of Lesotho.

In turn, in terms of non-banking financial institutions, there are 51 moneylenders in the country, and Lesotho has a total of six insurance companies and 12 insurance brokers. For its part, the insurance industry in Lesotho includes both long-term and short-term insurance.

Since 2000, the banking sector in Lesotho has been included in the Government's privatization programme. In line with this, many banking products have been improved to enhance access and efficiency. For instance, in 2006 a Real Time Gross Settlement system (also known as Lesotho Wire) was installed to settle large maloti payments in a timely manner and speed up bank-to-bank payments.²⁴ Following the implementation of Lesotho Wire, the value of interbank payments increased by 59 per cent in 2008 and by 69 per cent in 2009.²⁵

1. The contribution of the financial services sector to the national economy

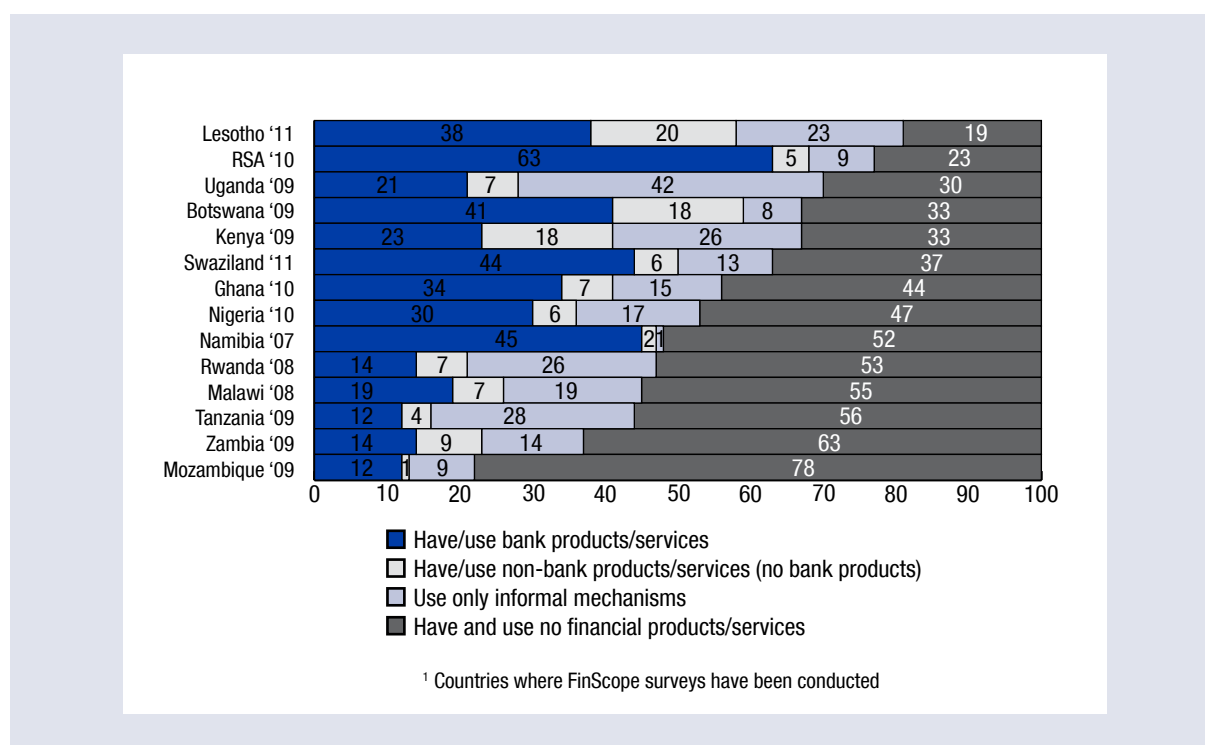
Efficient financial services are acknowledged as a critical necessary condition for facilitating strong economic and private sector growth in the national

economy in Lesotho. This is particularly important for the development of the SMME sector and the informal sectors of the economy. Indeed, the country's Vision 2020 calls for "access to credit and good loan management and repayment mechanisms" to form the cornerstone of the development and promotion of the SMME and informal sectors of the Lesotho economy.

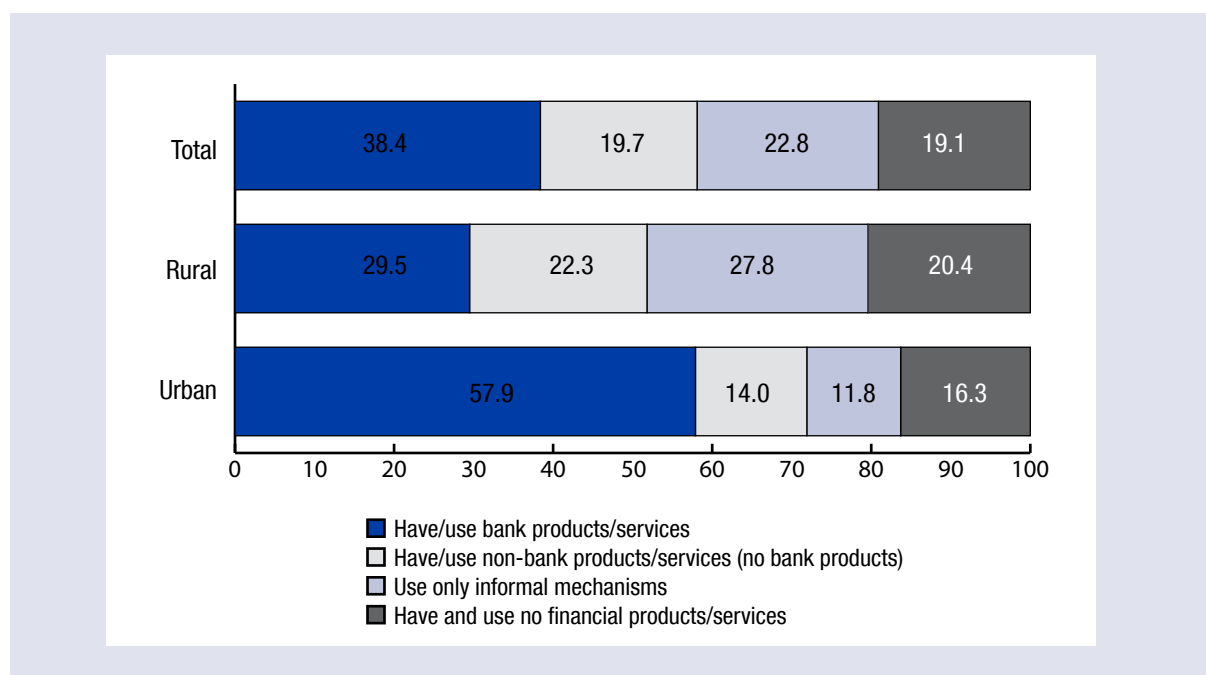
According to the FinScope Lesotho 2011 survey, the level of financial inclusion in the country is currently relatively high, especially in comparison with several other African countries (figure 8). Specifically, the FinScope survey estimates that 81 per cent of adult Basotho^{xxiv} are financially included, with 19 per cent financially excluded.²⁶ Much of this high level of financial inclusion is due to the level of usage of products related to funeral cover in Lesotho.²⁷ The proportion of the adult population that is formally included is significantly lower, however, at 58 per cent; and just 38 per cent of Lesotho's adult population is banked. In turn, 46 per cent of adults make use of non-bank formal financial products and services.²⁸

Furthermore, the aggregate statistics on financial inclusion in Lesotho mask differences in the levels of financial inclusion between the urban and rural parts of the country. Figure 9 shows that the levels

Figure 8. Lesotho's levels of financial inclusion in comparison with other African countries¹



Source: FinScope (2011).

Figure 9. Comparing levels of financial inclusion in rural and urban parts of Lesotho

Source: FinScope (2011).

of Basotho that have/use bank products and services is significantly lower in the rural areas in comparison with the urban parts of the country. Furthermore, a substantially greater share of Basotho use only informal financial mechanisms in the rural areas of the country in comparison with those in the urban areas. Finally, the percentage of Basotho that have and use no financial products or services is lower in the urban areas in comparison with the rural population.

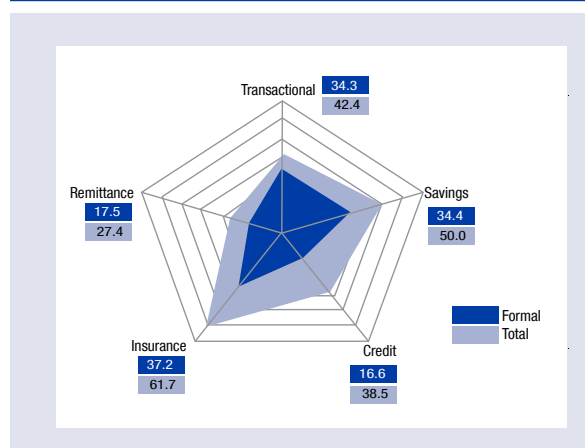
A number of challenges and factors have served to constrain the contribution of the financial services sector to the national economy in Lesotho. For instance, in terms of concentration, the majority of financial and non-financial institutions in the country are based in urban areas (mostly in Maseru), with the result that there is only limited access to financial services in the country's rural areas. Lesotho's commercial banks, in particular, are concentrated in the country's urban centres. Given that the majority of the Basotho population lives in rural areas (estimated at 80 per cent of the population and 69 per cent of the adult population), the concentration of formal banking institutions in the urban areas of the country disadvantages rural communities in accessing financial services. This problem is most noticeable with respect to access to bank products. Specifically, according to the FinScope Lesotho 2011 survey, just 30 per cent of rural adults in Lesotho are banked in

comparison with 58 per cent of their counterparts in the urban areas of the country.²⁹

The problem is also particularly evident in the case of women and girls in rural areas, who continue to face great difficulty accessing credit.³⁰ The continued minority status of women in Lesotho has meant that "most women do not meet the compliance conditions of financial institutions and do not have property to use as collateral".³¹ Encouragingly, however, several recent legal reforms have provided women with vastly improved access to productive resources. A significant development in this regard is the Married People's Equality Act (2006), which abolishes the husband's marital power and allows a woman to access credit in her own name and to enter into contracts without the assistance or permission of her spouse.

Furthermore, the differences in access to financial services between urban and rural locations has been addressed, to some extent, through the presence of informal financial services – such as unregistered moneylenders – which are more prevalent in rural areas in comparison with licensed banks and insurance service providers. Furthermore, development banks have attempted to bridge the divide by providing credit to rural dwellers in Lesotho. In this respect, 28 per cent of adults who are not served by the formal

Figure 10. Share of Basotho accessing formal and total* financial services (per cent)



Source: FinScope (2011).

* Total includes formal and informal financed services.

financial sector in Lesotho's rural areas are served by the informal sector.³² The role of the informal sector in pushing out the boundaries of financial inclusion in Lesotho is illustrated in figure 10.

Nevertheless, in order to enhance the contribution of the financial services sector in the country to the national economy, it is clear that there remains a need to improve the current levels of access to financial services in Lesotho. At present, a general lack of access to financial services in the country affects the operation of businesses and hampers economic development.

It is important to note, however, that issues associated with the lack of access to finance differ according to the diverging needs of financial service consumers in the country. For instance, improved access to banking services for the public is most urgently required in the rural areas of Lesotho. The majority of the country's rural population falls between the cracks of the formal banking system and is forced to resort to informal services. Mindful of this, Lesotho PostBank, which is fully-owned by the Government of Lesotho, is attempting to fill this void by providing targeted services to poor and rural citizens. Lesotho PostBank began operating in 2005 and obtained a full banking licence from the CBL five years later in 2010. The bank currently has close to 90,000 clients and holds approximately M 200 million-worth of deposits.

Some efforts have already been made to extend loans to SMMEs and boost the availability of financial intermediation services in rural areas. In this respect, the Rural Financial Intermediation Programme is expected to

facilitate the development of formal financial institutions for rural intermediation needs in Lesotho. To meet these needs, the institutional and operational framework of the Lesotho PostBank has been strengthened with the support of RSCGs that are funded by the International Fund for Agricultural Development.³³ Despite these efforts, the Government of Lesotho believes there remains great scope for growth in the provision of credit to the rural poor and SMMEs.

In addition, there are financial operators in Lesotho that cater to the illiterate, rural or poor members of the population. However, they primarily provide business skills or basic checking or savings accounts and require immaculate credit and/or substantial fees, guarantees and collateral. Currently, the most promising institution providing loans to these populations groups is Boliba. Boliba's savings and credit working practices are similar to those typical of credit unions. Most of its customers belong to rural, illiterate population groups. However, even Boliba has significant barriers to loan approval. Before extending a loan to somebody, the institution usually requires that the beneficiary maintains an account and deposits a certain sum of money on a monthly basis in order to ensure his/her ability to repay the loan. Other financial institutions, both formal and informal, operate in Lesotho's rural areas, including RSCGs, moneylenders, burial societies, financial cooperatives and rotating savings and credit groups.³⁴

Despite the presence of these institutions, access to development finance in Lesotho remains limited. In particular, there remains a lack of specialized institutions providing easily accessible capital to micro and small-scale enterprises. In the past, several previous attempts at creating development banks or microfinance institutions in Lesotho have failed. The most important case was that of BEDCO, a government-affiliated organization whose main area of operations is to provide technical and business training for people who wish to go into business or who are already in business and wish to get more education. In the past, BEDCO provided small business loans and engaged in microfinance activities, but these were abandoned due to the fact that the rate of default on these loans was too high. Similar attempts at the provision of loans and microfinance services by the Agricultural Bank and Lesotho Bank have also failed.

Furthermore, two international initiatives funded through official development assistance also failed. Specifically, the United Nations Capital Development

Fund project, the Small Scale Enterprise Project that acted as a guarantee facility for the Lesotho Bank for the purpose of underwriting the bank's lending to small-scale industrial sector entrepreneurs, was initiated in 1994. The project failed a few years later due to various factors, including a failure on the part of the Lesotho Bank to follow appropriate procedures and agreements, a very high default rate on loans, and an insufficient information management system. In turn, the Canada Fund for Local Initiatives was launched by the Canadian High Commission in South Africa and aimed to help local communities in Lesotho, Swaziland, Namibia and South Africa to realize small development projects. However, only groups and local institutions were eligible as beneficiaries, not individuals, and the fund expired on 31 March 2008.

2. Economic performance of the financial services sector

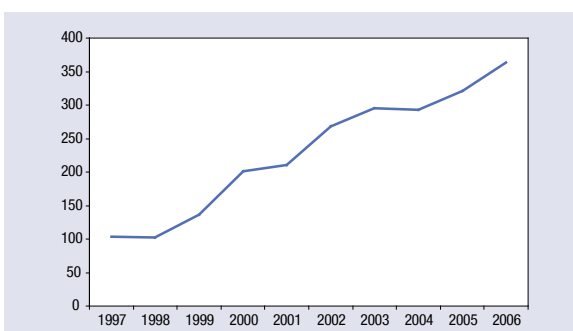
The value of the finance and insurance sectors in Lesotho's national GDP for the period 1997–2006 is presented in figure 11. Based on this data, the sector's value of output expanded significantly over this period – by 2006 it had reached more than 3.5 times the equivalent contribution in 1997.

Over the same period (1997–2006), the growth rate of the finance and insurance sector fluctuated significantly (figure 12), reaching up to 50 per cent in 2000 but posting negative figures in 1997, 1998 and 2004.

The availability of data on employment in Lesotho's financial sector is very limited. Data from the 2008 Lesotho Integrated Labour Force Survey does, however, show that nearly one third (32.1 per cent) of those employed in the country's financial intermediation sector were “clerks”, followed by “technicians and associate professionals” (26.1 per cent). Despite this, there is some evidence to suggest that there are currently skills shortages within the financial sector, particularly among public officials. In this respect, individuals with appropriate technical and financial management skills are particularly scarce.

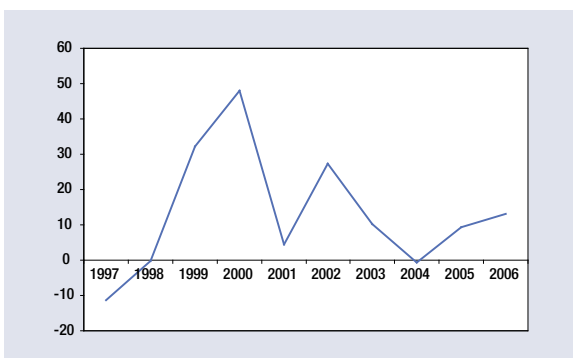
Turning to the various subsectors that comprise the financial services sector in Lesotho, the performance of the country's banking sector in recent years has been steady. Lesotho's banking sector has not suffered major losses during the financial crisis. This was largely due to the minimal integration of Lesotho's

Figure 11. Relative value of financial and insurance services in Lesotho, 1997–2006 (1995 = 100)



Source: Central Bank of Lesotho (2006).

Figure 12. Growth rate of financial and insurance services in Lesotho, 1997–2006 (percentage)



Source: Central Bank of Lesotho (2006).

financial system into global financial markets and, consequently, the system's very limited exposure to risky financial products. At the same time, there has been an improvement in the credit to deposit ratio in the country's commercial banks. This ratio rose from 29.6 per cent in December 2008 to 34.1 per cent at the end of December 2009, reflecting a willingness on the part of commercial banks in Lesotho “to extend credit to the private sector at a faster rate than the rate at which they mobilised deposits from the same sector”.³⁵

Nevertheless, the Government of Lesotho has acknowledged the need to increase competition in the banking sector. This has been motivated, in part, by reported difficulties faced by local Basotho, especially those living in the country's rural areas, in accessing credit from foreign-owned commercial banks in Lesotho.

Focusing on insurance, the CBL has noted previously that the performance of the country's insurance industry is inextricably linked to the performance of the economy as a whole. Table 4 compares aggregate

figures reflecting the gross premiums, total assets, total liabilities and net worth of the insurance sector over the four-year period between 2004 and 2007. In 2007, the total net worth of Lesotho's insurance industry increased by 55.6 per cent, reflecting a sharp turnaround from the reduction in net worth experienced in 2006.³⁶ In contrast, the industry's total assets grew by 8.2 per cent in 2007, dropping back marginally from the 9.2 per cent growth in total assets recorded in the industry in 2006.³⁷

The contribution of the insurance industry to national GDP (measured as the ratio of insurance premiums to GDP) expanded between 2004 and 2007. Specifically, the sector contributed 3 per cent of GDP in 2004, 4.4 per cent in 2005, 4.2 per cent in 2006 and 4.9 per cent in 2007.³⁸ Over the same period, net income earned in the industry also increased, rising from 32 per cent in 2006 to 43.8 per cent in 2007.³⁹ At the same time, underwriting results also improved – by 69.5 per cent in 2006 and by 118 per cent in 2007.⁴⁰

3. Trends in trade and investment in the financial services sector

The banking sector in Lesotho is dominated by foreign ownership. Specifically, South African banks (First National Bank, Standard Bank and Nedbank) constitute the majority of the commercial banks operating in the sector. It has been argued that, despite restrictions on investment outside of Lesotho, the majority of the banking deposits held by these commercial banks are invested in South Africa. At the same time, it has been noted that financial institutions in Lesotho remain highly risk averse, with banks tending to lend only relatively small shares of their deposits.

The reluctance on the part of commercial banks in Lesotho to extend domestic credit is due in a large part to a problematic culture of non-payment in the country. This is linked to three key issues. First, the absence of a national identification system means that banks face a major constraint in terms of the identification of customers. To date, moves to address this issue through the implementation of a national identity card project under the Millennium Challenge Account have been dogged by controversy. In March 2011, irregularities in the procurement process for the provision of national identity cards led to the cancellation of the tender.⁴¹ Further controversy related to the tender process (with, for example, confidential information being leaked to the public before the end of the tender evaluation process) has continued to delay the implementation of the national identification system.⁴²

Furthermore, in the case of SMMEs, it has been reported that many of these enterprises do not prepare financial statements and are not able to adequately demonstrate their credit histories, both important criteria upon which banks make decisions regarding whether or not to grant credit to companies.

Against this backdrop, while there has been encouraging recent growth in the credit to deposit ratio among the country's commercial banks, it remains below the 40 per cent mark, while it is as high as 80 per cent in some countries. With these factors in mind, it has been argued that there is a need to ensure that a greater proportion of the funds held by banks in Lesotho are lent within the economy in order to boost economic growth and development.

The low rate of credit extension in Lesotho is exacerbated by the presence of an underdeveloped capital market in the country. Specifically, while households in Lesotho can purchase treasury bonds

Table 4. General and life insurance gross premiums, total assets and total liabilities, 2004–2007

Particulars	Maloti (thousands)				Percentage change 2006–2007
	2004	2005	2006	2007	
Total gross premium written	376 126	381 322	453 320	569 274	25.6
Total assets	1 273 395	1 630 087	1 779 926	1 925 484	8.2
Total liabilities	1 092 550	1 338 465	1 573 894	1 604 961	2.0
Total net worth	180 845	291 622	206 032	320 523	55.6

Source: Central Bank of Lesotho (2007).

Table 5. Total investments in general and life insurance, 2004–2007

Particulars	Maloti (thousands)				Percentage change 2006–2007
	2004	2005	2006	2007	
Total investments	986 209	923 341	1 136 106	1 352 622	19.1

Source: Central Bank of Lesotho (2007).

Table 6. Total value of Lesotho's insurance services imports (\$ million), 1980–2010

1980	1985	1990	1995	2000	2005	2010
1.4	1.3	2.7	0.1	5.6	12.9	14.1

Source: UNCTADstat.

and bills from banks, there is currently no secondary market for bonds.

Focusing on the insurance industry, data are available on the total investments made in the industry for the four-year period between 2004 and 2007. Table 5 shows that after a small decline between 2004 and 2005, total investments in general and life insurance in Lesotho grew steadily between 2005 and 2007. In the period between 2006 and 2007, total investments in the general and life insurance industry in Lesotho increased by nearly 20 per cent.

Turning to trade in insurance services, Lesotho's total imports have increased from very low figures to \$14.1 million in 2010 (table 6). Nevertheless, these are still very low figures, accounting for 2.7 per cent of services exports. This percentage barely increases, to a 3.9 per cent share, when financial services are added.

4. Linkages with other sectors

In theory, the financial services sector in Lesotho should be inextricably linked to all major sectors in the economy through its role in the provision of finance and banking and non-banking financial services to these sectors. In certain instances, however, insufficient access to financial services has affected productivity and expansion in other sectors. For example, inadequate access to financial services has hampered the expansion of agricultural activities among the rural population in the country. This has played a part in precipitating the declining contribution of agriculture to national GDP. At the same time, it has been argued that there is a need to empower subsistence farmers in the country to engage in commercial agriculture so that they can gain access to finance from commercial banks.

Similarly, in terms of linkages with the tourism sector, it has been argued that this sector is not well understood by Lesotho's financial institutions, many of which regard tourism ventures as risky. As a result, it remains a challenge for many tourism service operators to gain access to much needed finance. More generally, linkages between the financial services sector and SMEs in Lesotho remain poorly developed.⁴³ Financial institutions in Lesotho tend to focus on the provision of loans and insurance services to large corporates, meaning that many SMEs are excluded from access to these services.⁴⁴

B. INVENTORY OF LEGISLATION, REGULATIONS, INSTITUTIONS AND POLICY MEASURES

There is a dearth of policies on financial services in Lesotho. There are many laws, but it is difficult to trace the roots of the policies behind them and to determine what was targeted to have been achieved by the laws. One reason may be that, because of Lesotho's membership in various arrangements, the country at times has to comply with certain international standards and these involve legislative changes because of the treaty obligations, rather than legislative changes being made pursuant to policy direction. For example, the Money Laundering and Proceeds of Crime Act was made not pursuant to an internal policy but because of Lesotho's participation in the memorandum of understanding among member governments of the Eastern and Southern African Anti-Money Laundering Group, which mandated members to have such legislation.

1. General legislation

Central Bank Act No. 2 of 2000

The Act provides for the objectives, functions and powers of the CBL, its administration and operations.

Companies Act 2011

The Companies Act of 1967 has recently been repealed and a new Companies Act enacted, although it has not as yet entered into force. Financial institutions must first be registered under the Companies Act.

Credit Reporting Bill

The Bill regulates the collection, use and protection of credit data. Banks have been hesitant to extend credit because of a lack of information on applicants' credit worthiness. The new law proposes to empower banks with a system to allow them to perform better risk assessment and, thus, have greater confidence in extending credit.

2. Banking legislation

Financial Institutions Act No. 6 of 1999

This is the primary Act providing for the regulation and supervision of financial services in Lesotho. The Commissioner of Financial Institutions is the CBL.

Draft Financial Institutions Bill 2011

The Bill is at the final stages of enactment. It has passed before the two houses of Parliament and is awaiting royal assent. The Bill aims to amend deficiencies in the Financial Institutions Act and to develop new banking products. The minimum capital requirements for financial institutions have been increased and banks are also empowered to lend out higher percentages of their paid-up capital. Most importantly, the Bill gives enhanced investigatory powers to the CBL where there is suspected illegal banking or credit business without a valid licence, so that it can act quickly and decisively to protect investors. The Bill provides powers to examine documents, fine businesses that do not cooperate with investigations, and imprison directors of non-compliant businesses. It also allows for the appointment of a trustee to ensure the repayment of investors' funds should the business be found to be operating in breach of provisions. Fines and prison terms have been increased to provide greater deterrent for breaches.

3. Insurance legislation

Insurance Act No. 18 of 1976

Two classes of insurance business are covered under the Act, life insurance and general insurance, and reporting and accounting requirements are imposed upon insurers.

Insurance Bill 2010

The Insurance Bill is at a very early stage of enactment. It has merely received certification and is yet to be placed before parliament. The Bill addresses the market conduct of insurance-service providers, the requirements for new entrants, and prohibits foreign insurance branches. The minimum capital requirement for sector operators has been increased from the former Act and the Bill also introduces a new procedure of inspection of insurance intermediaries (agents and brokers) which did not previously exist. Currently the commissioner relies on submitted returns and has limited on-site examination powers.

4. Non-bank financial institutions legislation

Societies Act No. 20 of 1966

Societies become relevant for discussion because many societies operate as RSCGs to provide informal financial services for the poor and marginalized groups in the rural areas.

Money-Lenders Order No. 25 of 1989

The Order makes provision for the regulation of moneylending and appoints the Commissioner of Financial Institutions as the supervisor of moneylenders.

Cooperative Societies Act No. 6 of 2000

The Act provides for the registration of cooperative societies as well as the functions of the Commissioner of Cooperatives in his supervisory capacities. The Act becomes relevant to the study because, as a result of exclusion from access to credit from formal financial institutions, many people form Savings and Credit Cooperatives (SACCOs) under the Cooperative Societies Act in order to access credit to establish or expand businesses.

5. Legislative gaps and inadequacies

The financial sector is one of the most extensively regulated sectors in Lesotho. This is because of its central importance to a well-functioning economy. However, the laws are outdated and it has taken a very long time for repeals and amendments to be effected. Delays are due to a combination of internal and external factors. Internally, regulators must expedite the drafting of laws. Externally, the process for legislative enactment in Lesotho generally leads to delays in the passing of laws. The result is that supervisors have their hands tied and cannot adequately exercise their mandates because of the lack of an up-to-date legislative framework.

There is no consumer protection legislation to protect consumers from practices such as breach of privilege, misrepresentations, or unfair and dishonest dealings. Furthermore, there is no microfinance legislation in Lesotho and this impedes the creation of microfinance institutions that would diversify the financial services sector. This is an unfortunate omission because the majority of the citizens of Lesotho live in the rural areas and are engaged in small-scale agriculture or other small-scale activities that disqualify them from accessing financing from formal financial institutions.

Were they to have access to institutions offering small loans, this would help them to expand their production so that they could have better prospects of escaping the poverty cycle. Instead they have had to rely on moneylenders who have, in recent case decisions (box 1), been found to be charging exorbitant interest rates outside the prescriptions of the Money-Lenders Order, or else they must rely on RSCGs or SACCOs.

Although moneylenders are regulated by the CBL, the cases were taken straight to the courts because the Money-Lenders Order does not empower the CBL to deal with conflicts between borrowers and lenders. The Order refers to judicial proceedings whenever there is allegation of the breach of any of its provisions. The CBL has, at times, attempted to mediate between parties in some conflicts but parties often lose heart during such proceedings and submit the conflict before the courts because the CBL has no real power to render any legally binding decision^{xxv}. Judgements such as the above bring challenges to the development of the financial sector in Lesotho. For example, several moneylending operations have been shut down, and the few that remain are mostly engaged in collecting loans due to them, rather than initiating any new business, for fear that they will not manage to recover their loans.

Box 1. Moneylender cases

The firms concerned were all locally registered licensed moneylending firms which were charged with breaching the Money-Lenders Order by charging interest above 25 per cent per annum. The Order regulates interest and permitted charges. All the cases are from 2009.

Afrisure Finance and Another versus Lechaka and Others, Court of Appeal (CIV) 29/09

The borrowers were all civil servants who individually borrowed money from the appellant, a moneylender licensed under the Money-Lenders Order. The borrowers alleged that the appellant charged interest in excess of 25 per cent and did not provide receipts of payments. Also, that the appellant charged initiation, administration and negotiation fees, as well as different types of interest (for example, induction interest and variable interest) contrary to section 20 of the Order. The court ruled in favour of the borrowers.

Makhulong Multi Finance (Pty) Ltd t/a B Blue Financial Services versus Nona and Others, Court of Appeal (CIV) 30/09

The borrowers contended that they were not "fairly dealt with" by the appellant because they were not supplied with copies of their contracts with the moneylender as per the requirements of the Money-Lenders Order. Nor were they supplied with receipts of their payments and also the charges levied against them were not in compliance with the Order as interest charged exceeded 25 per cent per annum. The court held that incidental charges and expenses related to loans are unlawful. Interest charged in excess of 25 per cent is also unlawful. The appellant was prohibited from recovering charges in respect of administrative fees, insurance and initiation fees from the applicants as such charges are in conflict with Order. The appellant's failure to issue receipts of payment was adjudged to be unlawful. Sums of money paid to the appellant in respect of incidental costs, charges or expenses were ordered to be set off against the amount actually lent to applicants, thereby reducing their loans accordingly.

Select Management Services Lesotho (Pty) Ltd versus Ratlali and Others, Court of Appeal (CIV) 31/09

The Court of Appeal also found the appellants guilty of charging amounts in excess of the ceiling provided in the Money-Lenders Order and of demanding unlawful charges not permitted by the same Order.

Source: Decisions of the Court of Appeal of Lesotho (references indicated).

The cases illustrate the importance of not only having laws and regulations in place, but also of having a system in place for monitoring the implementation of the laws, particularly to guarantee consumer protection. Legislative breaches need to be picked up by the supervisory body and addressed and rectified before there is a deluge of court cases and consequent exit of many sector operators. The regulator ought to be given more power to make binding decisions. An alternative would be to have an ombudsman for financial services to provide quick resolution of complaints at no charge to consumers. This would allow for disputes to be settled quickly and impartially and thus safeguard the growth of the financial services sector.

In a recent development, the CBL has now engaged a consultant to draft microfinance legislation. The law will cover both deposit-taking institutions as well as credit-only institutions. The fact that there is no legislation on consumer protection could lead to the potential exploitation of consumers of financial services. The CBL has engaged a consultant who is already working on remedying this vacuum in the law.

6. Institutions

Ministry of Finance and Development Planning (MFDP)^{xxvi}

In Lesotho, the MFDP is the relevant government ministry governing financial institutions. It is responsible for overall economic and development policies.

The Central Bank of Lesotho^{xxvii}

The CBL was created in 1978 and is wholly Government owned, although it has some independence in the formulation and implementation of monetary policy. It has approximately two hundred employees and its main supervisory departments are:

- Bank Supervision;
- Insurance Supervision;
- Non-banks Supervision;
- Policy and Exchange Control;
- Deposit Insurance (new division).

Commissioner of Insurance

The supervisor of insurance business in Lesotho is the CBL. It has the power to call for any relevant information, inspect any documents, investigate annual statements, examine and also license insurers.

Commissioner of Financial Institutions

The CBL is the Commissioner of Financial Institutions as per the Financial Institutions Act, the Money Lenders Order and the CBL Act. As part of its supervisory duties, it is due returns by financial institutions showing statements of assets and liabilities. The Commissioner may examine the books and other documents of institutions and issue directives to institutions, for example, to implement measures to rectify unsound business practices. The Commissioner may call for seizure of a financial institution and the Commissioner's consent is required before there can be the dissolution of any such institution.

Department of Cooperatives of the MTICM^{xxviii}

The Commissioner for Cooperatives registers and supervises cooperatives.

In summary, the institutions involved in regulating and supervising financial services are sufficient. They cover both formal and informal financial services and different corporate forms. The need that has to be addressed, however, is staffing and increasing the institutions' geographical reach.

7. Policies

Policy on Rural Savings and Credit Groups

This is a Policy that was adopted by the CBL in 1999. It discusses the problem of commercial banks being hesitant to offer credit to rural communities because of the associated high risk and high transaction costs. It explains that informal and semi-formal groups have emerged to fill the gap to mobilize savings in the rural areas, for example, SACCOs. The Policy has the objective of promoting rural financial intermediation. The Policy aims to link the informal sector with the banking sector to encourage more borrowing for income generating activities. Pursuant to the Policy objectives, the Credit Guarantee Fund has been established to the tune of M 2.5 million. Loans have been extended to three groups to the value of M 81,030 for purposes of poultry farming. The Policy has also enabled the training of groups to strengthen their financial literacy. This has been achieved in conjunction with efforts by the Ministry of Agriculture and Food Security and the MTICM through its Department of Cooperatives.

Regional efforts being undertaken under the SADC Finance and Investment Protocol

SADC members have agreed, under the SADC Finance and Investment Protocol (FIP), to, first, improve the investment climate in each state and region and, second, to achieve the preparation, cooperation and harmonization necessary for regional financial integration. With these aims in mind, the FIP contains regional commitments (to agree on common, harmonized policy frameworks) and country level commitments (strengthening of domestic sectors and establishing communication and cooperation with regional neighbours).

Although the FIP as a whole is still some way from full implementation (and Lesotho ranks among the member states with the lowest compliance levels),^{xxx} the FIP contains useful elements that may lead in the long term to, first, the implementation of policies regarding access to financial services in rural areas, second, to increased banking competition and lending and, third, to the simplification of procedures for SMMEs to access financing. These actions are likely to have a positive impact in strengthening the financial sector in Lesotho and to bring benefits to the end users of financial services.

C. REGULATION OF SECTOR OPERATORS

1. Insurance business

There are corporate form and nationality restrictions with respect to registration as an insurer in Lesotho. Section 4 of the Insurance Act provides that no person or entity other than a company incorporated in Lesotho as a public company, or a society registered in Lesotho under the Cooperatives Societies Proclamation (now Act) shall be eligible for registration as an insurer in Lesotho. There is also a requirement concerning share capital. It is an offence to carry on insurance business without being registered as an insurer under the Act and obtaining a certificate of registration. Applications for registration are lodged with the Commissioner of Insurance. The decision on the application is communicated within 30 days of the date of application. Certificates of registration are valid for a period of one year from the date of issue and may be renewed upon payment of the prescribed fee. It is possible for further conditions to be imposed on the

insurer upon renewal of the registration. Registration may be cancelled for reasons such as failure to carry on insurance business, inadequate margin of solvency and non-compliance with the requirements of the Act or of any regulations. Cancellation may be reversed should the insurer comply with requirements or with any directives that may be given by the Commissioner.

2. Insurance intermediaries (agents and brokers)

Insurance agents must be licensed under the Insurance Act. The Commissioner may demand that the applicant possesses certain professional qualifications relating to the principles and practices of insurance before granting the licence. He may further impose any reasonable conditions on the licence holder. Licences are valid for one year from the date of issue and may be cancelled if any disqualifying conditions arise or are discovered.

3. Cooperatives

Persons wishing to carry out activities as a cooperative must apply for registration to the Commissioner of Cooperatives and are granted a certificate of registration upon approval. Refusal of registration must be accompanied by reasons and appeal lies with the Minister of MTICM within 30 days of the refusal. Cancellation of registration is provided for, following winding-up.

4. Financial institutions

It is unlawful for financial institutions to conduct banking or credit business unless they have been licensed under the Financial Institutions Act. Local institutions must be public companies in order to qualify for licensing. Applicants apply to the Commissioner and any licence issued is subject to amendment of terms and conditions whenever it falls due for renewal. The Commissioner may call for necessary inquiries to determine whether the applicant is fit and proper to be granted a licence. Agents of financial institutions must also be licensed by the Commissioner as well as ancillary financial service providers. A licence may be revoked if the institution fails to commence operations within six months, is found to have obtained the licence under false pretences, fails to comply with any conditions of the licence, ceases to carry on the business, or breaches any provisions of the Act.

5. Moneylenders

Licences are required before a person can carry on business as a moneylender. Applications are made to the Commissioner of Financial Institutions. The licence is valid for the carrying on of business at one address only. Licences are valid for one year and may be renewed subject to conditions that may be attached by the Commissioner. Applications may be rejected on grounds of the poor character of the applicant, and appeal against such decisions lies with the Minister of Finance and Development Planning.

6. Societies

Societies apply for registration at the Law Office. It is an offence, punishable by fine and/or imprisonment, to manage or to be a member of an unregistered society.

D. PARTICIPATION OF FOREIGN SERVICE PROVIDERS

Insurance

Section 13 of the Insurance Act provides for records that shall be kept by insurers. There is no clear prescription of which records these are. It is simply provided that all insurers must keep records that “exhibit clearly and correctly the state of affairs and explain the transactions and financial position of [their] business in Lesotho”. However, section 14 goes further to stipulate records to be kept specifically by a foreign insurer. These are:

- Record of policies issued showing rights and obligations thereunder;
- Record of premiums received on all policies relating to transactions in Lesotho;
- Record of claims paid out and those outstanding;
- Record of other disbursements made in Lesotho;
- Record of all investments made and documentary evidence of assets and liabilities in Lesotho.

This means that foreign insurance service providers have specific requirements placed on them that are not placed on their domestic counterparts.

Foreign service suppliers are excluded from some corporate forms of establishment in financial services.

For example section 10 of the Cooperatives Societies Act provides that foreign nationals may not organize themselves under a cooperative society.

E. THE ROLE OF REGULATIONS THAT SUPPORT UNIVERSAL ACCESS TO SERVICES

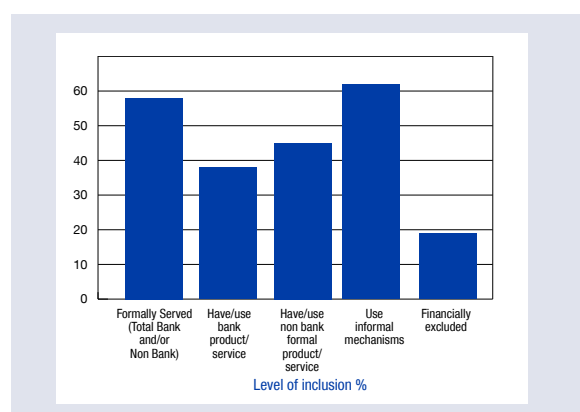
The Credit Guarantee Fund (CGF)

Formal financial institutions have been wary of extending credit. This is more so when it comes to poor, rural communities. This has caused some problems of lack of access to financial services (figure 13).

However, comparing Lesotho with her neighbours in the region we find that the country has higher inclusion levels. For example, in South Africa, 23 per cent of the adult population is financially excluded. Botswana, Swaziland and Namibia have financial exclusion levels of 33 per cent, 37 per cent and 52 per cent of the adult population, respectively.

The CGF was created in 2001 to give confidence to banks to lend to groups who have organized themselves for purposes of income-generating activities. The Government of Lesotho and donors contribute to the fund. To invoke the guarantee the lender has to show that they have exhausted all means of loan recovery. For a group to be eligible to benefit from the scheme it must be registered and have been operating for at least six months and with an active bank account for at least six months. At least 80 per cent of members should be Basotho, and at least 80 per cent of members

Figure 13. Access to financial services in Lesotho (percentage of the adult population)



Source: FinScope (2011).

should not be formally employed. The funds must be required for investment purposes (income-generating activities). The guarantee covers loans of between M 5,000 and M 50,000 with a maximum loan repayment period of 60 months, and the group has to have an acceptable record of savings. Groups apply for the guarantee if they would like to borrow more than the amount of their savings from commercial banks.

The CGF envisions shared responsibility upon loan default. Groups need to avoid misusing loans and cultivate a good payment record. Banks, in turn, need to disburse loans in a timely way and monitor them effectively. Upon default, if the bank can prove that they have exhausted all means of recovery, then the fund assumes 50 per cent of the risk and the remainder is shared by the bank and the group (at a ratio of 60 per cent to 40 per cent). The rationale is to induce responsibility in all stakeholders.⁴⁵

F. TRADE LIBERALIZATION COMMITMENTS AFFECTING THE SECTOR

As far as multilateral commitments are concerned, Lesotho's horizontal commitments inscribed in its WTO schedule of specific commitments also apply to the financial services sector. As stated earlier, these commitments include minimum capital outlay requirements and foreign equity requirements for foreign-owned enterprises (including joint ventures with domestic enterprises) which will also apply to suppliers of insurance and banking services in the liberalized subsectors. Further, the enterprise must be empowered to conclude contracts on behalf of the parent enterprise. Automatic entry and work permits are granted for up to four expatriate senior executives and personnel with specialized skills. Foreign enterprises established in Lesotho to provide insurance and banking services are compelled to provide training to locals so that locals may, in future, gain skills and assume specialized roles. There are no national treatment limitations inscribed in the horizontal section.

In terms of sector-specific commitments regarding financial services, Lesotho maintains partial liberalization under market access and national treatment. Lesotho has scheduled commitments regarding direct life insurance, non-life insurance services, and reinsurance and retrocession. Cross-border supply (mode 1) remains unbound, while

consumption abroad (mode 2) is fully liberalized. For commercial presence (mode 3) the schedule indicates that to transact business in Lesotho, insurers (foreign and domestically controlled) must be incorporated as public companies under the Companies Act. The acquisition of shares or any other interest (by a resident or non-resident) in a registered insurer resulting in the holding of 25 per cent or more of the value of all the shares or other interest in that business requires the written consent of the Registrar of Companies.

With respect to banking services, Lesotho has scheduled commitments with regard to the following services:

- Acceptance of deposits and repayable funds from the public;
- Lending of all types, including, inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions;
- All payments and money transmission services, including credit, charge and debit cards, travellers' cheques and bank drafts;
- Guarantees and commitments;
- Trading in, for one's own account or for the account of customers, whether on an exchange in an over-the-counter market or otherwise, the following:
 - Money market instruments, cheques, bills, certificates of deposit;
 - Foreign exchange;
 - Derivative products including but not limited to futures and options;
 - Exchange rate and interest rate instruments;
 - Money broking.

Cross-border supply (mode 1) and consumption abroad (mode 2) remain unbound for these service sectors. Market access limitations relating to commercial presence (mode 3) (for all the above sectors except money broking which is fully liberalized) are that foreign banks must establish domestic companies should they wish to obtain a controlling interest in a local bank. Further, all banks must be registered as public companies under the Companies Act.

Among the sectors and subsectors not currently inscribed in Lesotho's schedule of commitments are:

- Services auxiliary to insurance (including broking and agency services);
- Financial leasing;
- Participation in issues of all kinds of securities,

including underwriting and placement as agent (whether publicly or privately) and provision of service related to such issues;

- Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services;
- Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- Advisory and other auxiliary financial services on all the activities listed in the WTO document MTN. TNC/W/50 (page 7, Financial services: Definitions, 1.B. points 1–12), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- Provision and transfer of financial information, and finance processing and related software by providers of other financial services.

Financial services are among the priority sectors identified for liberalization within the SADC region, so when the negotiations begin the Government

of Lesotho may consider if it wishes to provide preferential access in any financial services sector to the region as compared with WTO members. This could be done either by removing some of the limitations that Lesotho maintains vis-à-vis WTO members with respect to its trading partners from the SADC region, or by taking liberalization commitments in those sectors not currently included in its WTO schedule of commitments. Such liberalization at regional level would be underpinned by the common – harmonized – policy frameworks that the region seeks to develop under the FIP.

G. FINANCIAL SERVICES SECTOR: AN ANALYSIS OF STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS

Box 2 highlights a number of strengths, weaknesses, opportunities and threats within the financial services sector in Lesotho.

Box 2. Financial services sector in Lesotho – strengths, weaknesses, opportunities and threats

Strengths

- Financial sector stability stemming, in part, from its participation in the Common Monetary Area (CMA). This is evidenced by low interest and inflation rates. In addition, the stability of the sector has been demonstrated by the robustness of the banking system in the aftermath of the global financial crisis.
- The recent implementation of several financial sector reform initiatives. For instance, the privatization of the banking sector has led to improved access and greater efficiency of banking products.
- The CBL is a well-organized and efficiently functioning institution that manages to adequately regulate and supervise sector operators.

Weaknesses

- Limited access to financial services in the country's rural areas – the majority of the country's financial institutions and intermediaries are currently concentrated in Lesotho's urban areas.
- A highly risk-averse commercial banking sector and a comparatively low credit to deposit ratio constrains lending.
- Confusion and a lack of clarity surrounding procedures required to access finance and credit facilities (particularly among SMEs).
- Previous failures of credit guarantee schemes.
- Outdated and ineffective regulation of both the banking and insurance sectors. In particular, there is currently insufficient regulation of moneylenders and informal suppliers of financial services.
- Limited access to modern technology.
- Small size of the market places an upward limit on the expansion of financial services.
- Outdated legislation and delays in passing and implementing legislative reforms.
- Legislative gaps in certain areas related to microfinance and consumer protection.

Opportunities

- Scope to expand the presence of non-bank formal service providers to extend the reach of financial services related to insurance provision and microfinance.
- Strong demand for microfinance, particularly in rural areas currently underserved by financial institutions, suggests that there are opportunities to boost the supply of microfinance products in Lesotho. At present, the existing microfinance options in the country are quite rudimentary. Similarly, there is potential to develop legislation governing microfinance in the country.
- Significant scope to further develop the capital market in Lesotho.
- Great scope to expand the presence of both banking and non-banking financial institutions in Lesotho's rural areas.

Threats

- A large number of legal cases between debtors and creditors is hampering the development of the sector. Absence of legislation on credit reporting and the absence of a credit bureau deter the granting of credit because of the high level of risk involved in such an environment.
- Demand-side barriers to financial inclusion in the form of an inability to afford financial services due to inadequacy of income and negative attitudes towards financial matters and institutions that prevent individuals from using financial products or services. For example, many Basotho (estimated at 71.6 per cent of the population) cannot afford insurance.
- Supply-side barriers to the use of financial products and services, including physical access (distance and convenience of operating hours), high interest rates for credit products and low interest rates for savings products, and poor customer service and processing times.
- High cost of banking services by regional standards (particularly in comparison with Namibia and Swaziland) affects the competitiveness of the banking sector.
- Limited presence of local ownership within the commercial banking sector, with the high level of foreign ownership leading to a low level of investment of banking deposits in Lesotho.
- Insufficient institutional capacity to implement reforms in the financial sector.
- A lack of monetary policy autonomy due to Lesotho's participation in the CMA.

Source: UNCTAD, based on interviews with stakeholders, research and literature review.

SERVICES POLICY REVIEW



IV

PROFESSIONAL MEDICAL SERVICES SECTOR

A. ROLE AND PERFORMANCE OF THE PROFESSIONAL MEDICAL SERVICES SECTOR IN LESOTHO

In Lesotho, health is at the very heart of the country's overall development objectives. Indeed, the country's Vision 2020 stipulates:⁴⁶

Basotho shall be a healthy nation with a well-developed human resource base. The country will have a good quality health system with facilities and infrastructure accessible and affordable to all Basotho, irrespective of income, disabilities, geographical location and wealth. Health personnel will provide quality health service and patient care.

Reforms to health and social welfare policies in Lesotho in the past decade have stemmed from the introduction of the country's Health and Social Welfare Policy in September 2003, which provides the agenda for the development of the sector.⁴⁷ The Health and Social Welfare Policy was formulated as an integral component of the national development strategy outlined in Lesotho's Vision 2020 framework. Lesotho's Health and Social Welfare Policy is guided by a number of principles, including:⁴⁸

- Poverty reduction and social welfare;
- A PHC approach to service delivery that relies or focuses on community participation, inter-sectoral collaboration, appropriate technology, disease prevention, health promotion and behaviour change;
- Equal access to basic health care and social welfare services and the adoption of strategies that will redress any existing disparities by giving special attention to disadvantaged regions and underserved communities in the country;
- Affordability of services;
- Community participation in management and planning for health and social welfare services;
- Integrated service delivery approaches;
- Sustainability of service provision when external support stops;
- Efficiency in resource allocation so as to ensure that resources are only used where the greatest benefit can be realized in the most cost-effective manner;

- Ensuring that good quality services are supplied;
- According special attention to ensuring that health and social welfare services are available for women given their generally lower status in society and their special role in reproduction;
- Adhering to the highest level of ethics and integrity, guided and enforced through professional councils and legislation.

Although progress has been made in the provision of health services to the Basotho people (it is estimated that 85 per cent of the population in Lesotho have access to health services),⁴⁹ limited capacity within Lesotho's health sector remains a major challenge to addressing and combating the spread of diseases such as the HIV and AIDS pandemic, and tuberculosis. These diseases place considerable pressure on an already overburdened healthcare system. The rise of the HIV and AIDS pandemic has "dramatically reversed" previous gains that Lesotho achieved in health indicators, especially with respect to life expectancy, which dropped from 59 in 1990 to 44 in 2010.⁵⁰

This problem is exacerbated by the fact that 81 per cent of the Basotho population live in remote rural villages, often several hours away from the nearest clinic.⁵¹ According to the World Health Organization (WHO), while 75 per cent of the urban population in Lesotho can reach health care facilities in less than 45 minutes (within walking distance), more than 75 per cent of the country's rural population are outside of walking distance of a health facility.⁵² Furthermore, an inequitable distribution of health facilities and the need to strengthen health institutions in the country for efficient and effective service delivery remain areas requiring urgent attention.

1. The contribution of professional medical services to the national economy

The development and expansion of professional medical services can play an important role in addressing these issues in Lesotho. In developing countries, professional services are of particular importance because they contribute to knowledge generation and its diffusion to other productive activities and social endeavours. Such services are typically provided by highly skilled and trained professionals, many of whom

Table 7. Total numbers of doctors, dentists, pharmacists, paramedics and other medical professionals in Lesotho, 2005–2011

	Doctors	Dentists	Pharmacists	Paramedics	Others
2005	165	18	20	4	105
2006	144	22	16	3	69
2007	176	22	20	1	129
2008	198	32	15	9	88
2009	213	27	20	5	130
2010	215	27	21	5	136
2011	232	20	41	12	132

Source: Compiled from registration data (2005–2011) collected by the Medical Council.

are required to be licensed or accredited to provide these services. In line with the WTO Services Sectoral Classification List, medical and dental services fall under this broad category of professional services. According to the United Nations Provisional Central Product Classification, medical and dental services are “chiefly aimed at preventing, diagnosing and treating illness through consultation by individual patients without institutional nursing”. It is envisaged that by helping to ensure a healthy workforce, professional medical services can contribute to economic growth and development in Lesotho.

In Lesotho, the professional medical services sector can be disaggregated into a number of subsectors. These include nurses, medical doctors, pharmacy, laboratory, nutrition and dental personnel, environmental health workers, and community health workers. More broadly, the main providers of professional medical services can be disaggregated into three categories: Government of Lesotho providers (public-sector providers of health services, including government health centres and district hospitals), faith-based providers (referring to the provision of health services by Christian churches) and private-sector providers (representing for-profit providers of health services).

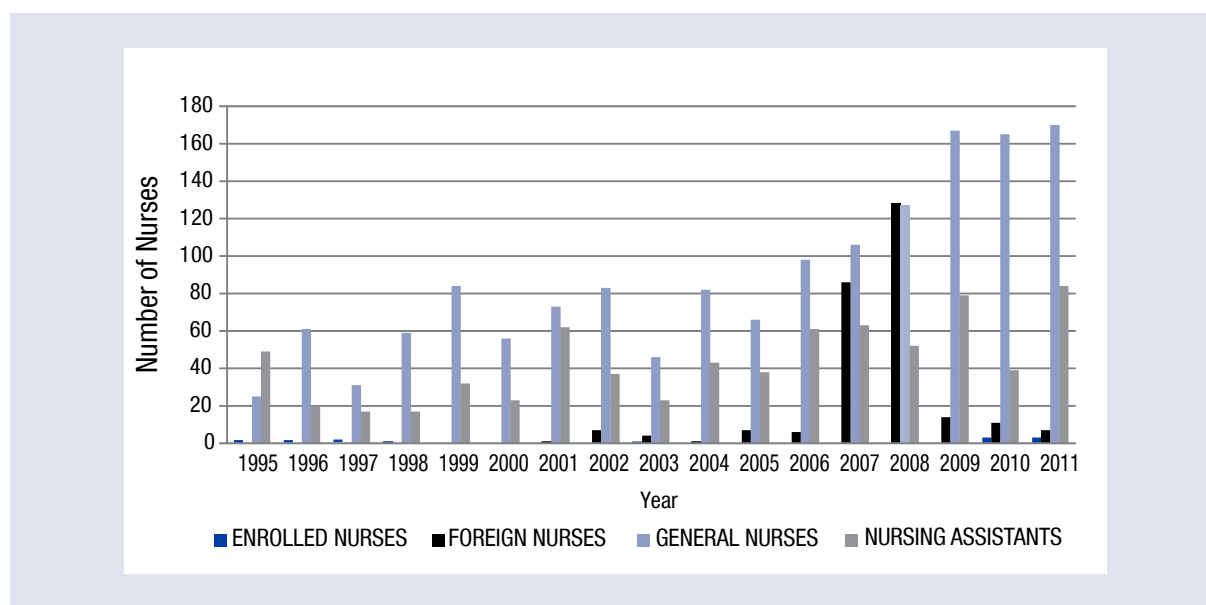
Across Lesotho there are a total of 79 government health centres, 10 district hospitals and one public referral (tertiary) hospital located in Maseru. In addition, the country is home to one private hospital (Maseru Private Hospital) which has 28 beds, three resident doctors and two operating theatres. A total of 42 per cent of the health centres in the country, and 58 per

cent of the hospitals, are Government owned; 38 per cent of the hospitals and 38 per cent of the health centres fall under the control of the Christian Health Association of Lesotho (CHAL), and the remaining facilities are either privately owned or operated by the Lesotho Red Cross.⁵³

2. Economic performance of the professional medical services sector

Lesotho has fewer health professionals than the African average (WHO, 2006). Focusing initially on the number of health professionals in the country, table 7 outlines the growth in various categories of medical professionals in Lesotho since 2005. With the exception of dentists, the numbers of doctors, pharmacists and paramedics have all grown steadily since 2005. This growth has been largest in the case of pharmacists and paramedics, the numbers in these professions having more than doubled since 2005. There have also been notable increases in the number of doctors (40.6 per cent) and other medical professionals (for example, psychologists, opticians and physiotherapists) (25.7 per cent) since 2005.

According to the MOHSW, in Lesotho “nurses are the single largest cadre of health workers in the formal sector”.⁵⁴ They account for more than 73 per cent of all health workers in the country, and 90 per cent of the personnel directly engaged in the provision of health services. Furthermore, the number of nurses in the country has grown steadily since 1995

Figure 14. Numbers of enrolled nurses, foreign nurses, general nurses and nursing assistants in Lesotho, 1995–2011

Source: Compiled from registration data (2005–2011) collected by the Medical Council.

(figure 14). This has been driven by strong growth in the numbers of general nurses and nursing assistants, counterbalancing a sharp fall in the number of foreign nurses working in the country since 2008.

In turn, medical doctors (physicians) represent the second largest cadre after nurses, accounting for approximately 5.8 per cent of the health workforce in Lesotho. The majority of the medical doctors in Lesotho are employed by the MOHSW, which employed 66 per cent of all medical doctors in the country in 2006.

In comparison, there are very few nutritionists in Lesotho. According to the Human Resources for Health development strategy, Lesotho has 0.0002 nutritionists for every 1,000 Basotho. Similarly, the supply of dental personnel is also very limited, with just 0.007 dental personnel for every 1,000 Basotho.⁵⁵ According to the MOHSW, in 2010 “the number of [dental] staff was so limited that only Maseru had more than one dental staff employed”.⁵⁶ Interestingly, among the existing stock of dental personnel in the

Table 8. Density of health personnel per 1,000 members of the population in Lesotho compared with the WHO African region

Category	Density of health personnel per 1,000 members of the population	
	Lesotho	WHO Regional Office for Africa region average
Physicians (medical doctors)	0.049	0.217
Nurses and midwives	0.623	1.172
Dentists and technicians	0.009	0.035
Pharmacists and technicians	0.034	0.063
Environmental and public health workers	0.031	0.049
Laboratory technicians	0.081	0.057
Community health workers	n.a.	0.449
Health management and support	0.010	0.411
Other health workers	0.013	0.173
Total	0.850	2.262

Note: Total numbers and densities of the health workforce in Lesotho (2002).

Source: WHO (2006).

Table 9. Growth of value added in Lesotho's health and social work sector, 1993–2003

Tertiary Sector	Percentage growth					
	1993	1995	1997	1999	2001	2003
Health and social work	39.4	-6.3	-6.0	2.5	0.8	2.0

Source: Manduna (2005).

country, most are female (63 per cent) and Basotho (93 per cent).

Furthermore, a study conducted by Price Waterhouse Coopers in 2007 found that the health sector in Lesotho is confronted by a scarcity of skills in the medical and allied professions. There is a shortage of critical skills, in particular, in the sector.⁵⁷ This is exacerbated by the presence of relatively few training institutions available to nurses, and the absence of any institution to train individuals responsible for providing training to nurses. There are only six institutions in Lesotho that provide training to nurses: the National University of Lesotho, the National Health Training College, Maluti Hospital, Roma College of Nursing, Scott School of Nursing and Paray School of Nursing. Of these, only the National University of Lesotho offers nursing degrees; the others offer diploma programmes.

Similarly, Lesotho ranks poorly in terms of the density of health personnel for every 1,000 members of the population in comparison with other countries in Africa. Table 8 compares 2003 figures on the density of specific types of health personnel in Lesotho with the average for the WHO African region, and shows that, in 2003, Lesotho had fewer physicians, nurses and midwives, dentists and technicians, pharmacists and technicians, environmental and public health workers, and other health workers in comparison with the African average.

The process of assessing the contribution of the professional medical services sector to national GDP is complicated by the fact that much of the available data are bundled together under the broader health and social work sector. The health sector contributes an average of 1.7 per cent to national GDP.⁵⁸ Growth in value-added of the broad health and social work sector has, however, fluctuated significantly since 1993. Data are available for the decade from 1993–2003 (Table 9) and reveals that after significant growth in value added in the health and social work sector in 1993, contractions were recorded in both 1995 and 1997, and more recently value added in the sector has grown at only modest rates.

3. Trends in trade and investment in the professional medical services sector

Trade in professional medical services can occur through the movement of health professionals (on a temporary or permanent basis) to supply services abroad, or where feasible, by supplying services through new technological means (for example, telemedicine). In many developing countries, this trade has given rise to a brain drain in which skilled medical professionals ply their trade abroad, potentially leading to a lack of appropriately qualified medical professionals to cater for local needs, especially those located in the most remote areas of a particular country.

Lesotho appears to have suffered from this brain drain of skilled medical professionals. The Transformation Resource Centre reported in 2005 that over 80 per cent of qualified Basotho doctors left Lesotho, with about 75 per cent of Basotho doctors working in South Africa.⁵⁹ Other countries that have been recipients of Basotho doctors are Canada, the United States of America and the United Kingdom of Great Britain and Northern Ireland, with estimates suggesting that close to 20 Basotho doctors are working in these countries.⁶⁰

The situation pertaining to the nursing profession is no better. The effects of the rising HIV and AIDS pandemic have resulted in a greater need for nurses in Lesotho. In 2005, the Transformation Resource Centre reported that many rural clinics were without qualified nursing staff.⁶¹ This is due, at least in part, to a lack of incentives for medical professionals to work in the rural areas of the country. At the same time, it is estimated that over 70 per cent of qualified Basotho nurses were working outside Lesotho in countries such as the United Kingdom of Great Britain and Northern Ireland, the United States of America and neighbouring South Africa.⁶²

The shortage of skilled medical professionals in Lesotho has been filled, at least in part, through imports of doctors from Nigeria and the Democratic

Republic of Congo. Furthermore, the WHO has reported that “South African private practitioners living near the border go to Lesotho to provide services for two to three days a week, mostly in Maseru, given its market potential. Yet these practitioners are not always registered in Lesotho”.⁶³ Moreover, it has been suggested that the provision of external funding for foreign health professionals operating in Lesotho has created a situation where, in certain instances, foreign health professionals are paid more than their Basotho counterparts, which can serve as a demotivating factor for local health professionals.

B. INVENTORY OF LEGISLATION, REGULATIONS, INSTITUTIONS AND POLICY MEASURES

The MOHSW is in the process of amending the legislation and regulations governing medical services in the country. Consultants have been engaged in the process but the work is still in its very early stages. Drafts of the new laws that will replace the old ones are still in the process of being drawn up.

1. Legislation

Public Health Order No. 12 of 1970

This Order provides for the functions of the MOHSW, in particular the promotion of health and the prevention of diseases.

The Medical, Dental and Pharmacy Order No. 13 of 1970

The Order establishes the Medical, Dental and Pharmacy Council which is a corporate body consisting of 10 members. The Council keeps a register of all registered medical practitioners, dental surgeons, and pharmacists and paramedical personnel practising in Lesotho.

Nurses and Midwives Act No. 12 of 1998

The Act establishes the Lesotho Nursing Council and regulates nursing education and practice.

Nursing and Midwifery Bill 2008

This bill, which is still at drafting stage, will repeal the 1998 Nurses and Midwives Act, this latter Act being considered to be outdated and shallow, and to limit the powers of the Council. The bill, for example, seeks to protect the public from malpractices and misconducts by nurses by setting standards for nurses. It strengthens disciplinary proceedings and outlines the procedure to be followed where a practitioner operates without a licence. It allows the regulation, by the Council, of nurses in private practice. The new Bill will also contain provision for continuing professional development points for nurses as criteria for licence renewal.

2. Regulations

Medical, Dental and Pharmacy (Degrees) Regulations. Order No. 3 of 1972

Medical, Dental and Pharmacy (Degrees) (Amendment) Regulations No. 12 of 1972

Both these regulations provide the degrees, diplomas and certificates which shall entitle the holders thereof to registration as medical practitioners, dental surgeons or pharmacists.

3. Legislative gaps and inadequacies

Firstly, the laws are very outdated and have never been amended, save for the regulations which sought only to add to the list of recognized institutional certificates. However, the MOHSW has currently engaged consultants to review the laws to lead to their amendment. The work is still in the very early stages. Secondly, the powers given to the Medical Council under its Act are very weak and hinder its ability to regulate the health care sector. For example, if medical professionals do not come to renew their registrations the law does not give the Council power to take any action against them. There are cases where professionals have continued for years without renewing expired registrations. In those cases the Council will simply make them pay the arrears and a mere M 50 per year as a penalty. Further, the law provides that every doctor who practices in Lesotho,

even those who are not resident in the country and enter it a few times a week to see patients, must be registered. However, there are doctors from South Africa who see patients in Lesotho without being registered with the Council. Even if it had the capacity to do so, the Council is unable to monitor or take action against such practices because of lack of legal empowerment.

There is no legislation providing guidelines for private practices. It is only now that the MOHSW is starting to work on guidelines for private practices to introduce basic requirements for such practices. This vacuum currently leaves consumers at a risk of being treated in practices that do not have adequate facilities. The danger is compounded by the lack of medical malpractice law. There is currently no statute to refer to in cases where negligent conduct is claimed against a medical professional, either in diagnosing or treating a patient. This leaves patients with no other recourse than the general delict of negligence with its high burden of proof requirements. Were there to be medical malpractice law this would create an impetus for professionals and hospitals to take medical malpractice insurance which would contribute to the growth and diversification of the financial institutions sector.

Currently the basis for the renewal of registration is simply based on the expiration of the registration. There are no other requirements that the professional ought to have met in order to qualify for the renewal. In the pipeline are plans to add a system of continuing professional development points as qualification for renewal of a certificate. This means that only those professionals who have improved on their training, for example, by continuing education, attending conferences, and completing courses will qualify for renewal. It is hoped that this new system will be put into bill form by the end of 2011.

The current legislation only covers doctors, dentists, pharmacists, paramedics, nurses and midwives. This excludes many other health professionals who operate in the country, such as psychologists, physiotherapists and optometrists. These professions are also registered by the Medical Council but are not mentioned anywhere under the regulatory ambit of the legislation. Furthermore, there is a strong reliance on traditional healers in Basotho society and yet their practices are not regulated under any law. In 2007, 2,604 traditional healers were registered in Lesotho.^{xxx}

4. Institutions

The Government of Lesotho provides 43 per cent of health care services in the country (table 10), the CHAL provides 39 per cent and other NGOs and the private sector are responsible for the remaining.

The Ministry of Health and Social Welfare^{xxxi}

This Ministry is responsible for health policy in Lesotho. The Ministry was given a budgetary allocation of M 1,033.5 million for the 2011/2012 fiscal year.

The Medical, Dental and Pharmacy Council

The Medical, Dental and Pharmacy Council is a corporate body that keeps a register of all registered medical practitioners, dental surgeons, pharmacists and paramedical personnel practising in Lesotho. One major problem affecting the efficiency of the Council is that it only has two staff members. This means that it does not have the necessary manpower to be able to monitor medical practitioners for compliance with the Act. This problem is further compounded by the fact that it has no mobility. Lack of ability to monitor and supervise practitioners means that the Council can only become aware of alleged malpractices if a member of the public complains directly to it. However, very few people know about this procedure and thus it is never initiated and followed through to completion. The Council has very few financial resources. Its only source of income is registration fees. There is no government funding or allocation from the Ministry. Their office space is limited to two offices with bare

Table 10. The provision of health care services in Lesotho

Health care service provider	Percentage of services provided	Number of health care facilities:	WHO Regional Office for Africa region average
Government of Lesotho	43	12	76
CHAL	39	8	72
NGOs	2.9	0	6
Private sector	15.1	1	30
Total	100	21	184

minimum equipment. Its operations are centralized in Maseru, which makes it difficult for practitioners who are in the remote areas of the country to travel to renew their registration certificates when they expire.

The disciplinary powers of the Council are weak and do not deter potential infringements of the Order or acts of malpractice. The Council's Disciplinary Committee sits to hear disciplinary matters and recommends to the Council what action should be taken. The proposal must be ratified by the Council in order to take effect. Penalties are usually suspension for some months or, in extreme cases, removal from the register.

The Nursing Council

This is the institution that is responsible for the licensing and monitoring of nurses. Challenges to the Council's efficiency are that it is centralized and thus can only provide services from Maseru. It is manned by only two staff members. Because of these challenges, the Council is assisted by the Professional Conduct Committee, which is a committee made up of six volunteers who supervise nurses in conjunction with the Council. It undertakes visitations to hospitals to ensure that nurses, for example, are registered. However, the committee's work is further hampered by transport constraints. Thus, supervisors in hospitals also assist the Council by checking that all nurses have licences that are up-to-date. The Council does not receive any government financial assistance or donor support and relies solely on fees that it collects as well as the sale of distinguishing devices.

Table 11. Nursing Council fees in Lesotho

Nursing Council fee categories	Fees in maloti
Registration fee	M 200
Renewal of licence	M 150 (nurses)
M 75 (nurse assistants)	2.9
Late registration	M 100 per year
Verification fee	M 200
Student registration fee	M 100
Affidavit fee for lost certificates	M 200
Application fee for foreign nurses	M 300
Licensure examination fee	M 200

Source: Personal interview with Mamohapi Poka, Registrar, Nursing Council, 2 November 2011.

Christian Health Association of Lesotho

CHAL was established in 1974 and runs health care training services in Lesotho. It has a membership affiliation of six churches: the Anglican Church of Lesotho, Assemblies of God, the Bible Covenant, Lesotho Evangelical, the Roman Catholic Church, and the Seventh Day Adventist Church. Some of the sources of their funding include the Government of Lesotho and the Millennium Challenge Corporation.

5. Policies

There are no formal policies on medical professionals or health professionals in Lesotho. What exist, however, are unwritten policies and strategic plans.

Past and current position

Past and current policy on the development of health professionals has been two pronged. Firstly, the Government of Lesotho would, through the National Manpower Development Secretariat (NMDS) provide funding for professionals to study abroad. Secondly, study leave is granted to professionals in the public sector to pursue postgraduate study.

The Human Resource Development Strategic Plan maps out the planned development of different cadres of health professionals. The Continuing Medical Education Plan followed a needs-assessment exercise that was undertaken to assess the knowledge and skills of health professionals compared with the expected knowledge and skills. Knowledge and skill gaps were determined and a plan was drawn up to bridge the gaps. For example, it was determined that there was a shortage of skills on emergency obstetric care. The Continuing Medical Education Plan aims to provide access to short courses and on-the-job training for professionals so that they can further develop their skills to meet the needs of the country. Furthermore, an agreement has been entered into with the new National Referral Hospital that every year the hospital will pay for Basotho doctors to pursue studies leading to specialization. An agreement has also been struck with the NMDS to set aside a certain proportion of funds specifically for medical studies.

Future policy

A retention policy exists but has not as yet been formalized. It has been reviewed and is awaiting formal adoption by the leaders of the MOHSW. The expectation

is that it will be implementable soon. The policy aims to retain medical professionals and to curb the current brain drain. At the moment, approximately twenty doctors are trained, at government expense, every year in South Africa at an average cost of R 70,000 per year. Out of those, only one doctor on average returns to work in Lesotho. The hope is to tackle conditions that are responsible for this phenomenon and make the Lesotho health sector a more desirable environment in which to work. The policy prioritizes interventions that are targeted, fairly distributed, and affordable. It takes off from a holistic viewpoint of examining all the push and pull factors in the migration of medical personnel and includes strategies such as addressing working conditions to enhance worker motivation, remuneration reviews and financial incentives, as well as personal development issues.

In addition, it is important to note that several regional initiatives are ongoing under SADC. These might, if successful, have a positive impact in the regulatory and institutional frameworks and lead to increased trade of health services in the region in years to come. For instance, a regional health policy was developed in 2006 which deals with a wide range of issues affecting health in the region. SADC has also developed programmatic strategic frameworks on different areas like HIV and AIDS. Countries are in the process of implementing these frameworks.

A policy on human resources for health is being developed since 2006. This is meant to govern the mobility of health professionals in the region. Currently, this is done through bilateral agreements among concerned parties that are meant to curb brain drain within the region. The policy which is being developed provides a multilateral framework aimed at rationalizing the movement of health professionals in the region.

There is also work being done at the regional level concerning identification and establishment of regional referral hospitals. These will be hospitals which are known for their specialization in certain areas of health like cancer or tuberculosis. It is envisaged that there will be several referral centres in the region. These referral hospitals should contribute to enhancing trade in services through consumption abroad (mode 2) and temporary movement of natural persons (mode 4), which may be medical professionals in this context.

This is an initiative to develop a standard document which can be easily carried by patients to other hospitals in the region. This project is being given

priority and a pilot tuberculosis document is being tested. There is also work being undertaken concerning the establishment of supranational laboratories in the region so as to provide quality assurance and services.

Institutional mechanisms have been put in place in the context of SADC with a view to examining the issue of mutual recognition of qualifications for health professionals and related standards. The ongoing work is framed by the Draft Protocol on the Facilitation of Movement of Persons and the Protocol on Education and Training.

C. REGULATION OF SECTOR OPERATORS

Medical practitioners, dental surgeons and pharmacists

Medical practitioners, dental surgeons and pharmacists must be registered with the Medical Council before they can practice in Lesotho. Applicants apply in writing to the Registrar, submitting educational certificates and evidence of identity, of good character and reputation, and of the authenticity and validity of the degree, diploma or certificate submitted, as the Council may require. The professional will then be issued with a certificate of registration and a retention certificate which is renewable every year for a fee. The fees are subject to an annual 10 per cent escalation. Examples of current fee levels are shown in table 12.

The Council may refuse registration if, in its opinion, the applicant, notwithstanding that she/he is otherwise qualified, is not a fit person to be registered by reason of the fact that she/he is not of good character and reputation or has not an adequate knowledge of either the Sesotho or the English language. A person may be removed from the register if disciplinary proceedings confirm breach of any provisions of the Medical, Dental and Pharmacy Order.

Table 12. Medical Council registration fees

Registration fee categories	Fees in maloti
Medical practitioner	M 460
Specialist	M 570
Dentist	M 460
Pharmacy technician	M 500
Allied health professional/paramedics	M 300

Source: Personal interview with Tentenkie Mohapeloa, Registrar, Medical Council, 26 October 2011.

Nurses

Once a nurse has passed exams at a training institution, she/he can sit for a licensure exam that is set by the Nursing Council. If the exam is passed, the nurse will be given a licence to practice, which is renewable on a yearly basis. Appeal against refusal to register lies with the High Court of Lesotho.

D. PARTICIPATION OF FOREIGN SERVICE PROVIDERS

Generally it is not difficult for foreign nationals to participate in the health sector. Lesotho has a long list of recognized qualifications from institutions all over the world. Foreign doctors apply for registration in exactly the same manner as their domestic counterparts. Even if a medical professional is just coming to work in the country for a few weeks, they still have to register with the Medical Council. However, those who provide services on a consultancy basis (that is, they are called in to assist a registered practitioner with a patient as a consultant) do not require registration. Registration may be denied on the grounds that the applicant does not possess an adequate knowledge of either the Sesotho or the English language.

Foreign nurses must apply for a licence from the Nursing Council before they can practice in Lesotho. Verification must be sent from the registering authority of the home state to the Nursing Council to prove that the applicant was registered in their home country. The Credentials Committee will review the applicant's credentials and, if satisfied, the applicant will be admitted to take the licensure exam which, if passed, will entitle them to registration. There are no other requirements or restrictions on foreign nurse practitioners.

Barriers that may arise are caused by problems outside the sphere of medical legislation and procedures, and are related to general difficulties of foreigners accessing work and residence permits. These barriers face all foreigners regardless of the sector in which they participate, that is, they are not unique to the medical profession. The processing of residence and work permits can take a very long time, months even, and sometimes the residence and work permits do not correlate with the contract of employment (for example, a person can hold a three year contract and be issued with permits valid for two years). This is because work permits cannot exceed two years, and residence permits are issued to tally with

work permits. The permits and their renewals are also relatively costly (see annex 3) The prices are part of the general raising of administrative charges in the country and they are unlikely to be reduced. Delays are primarily caused by limited staff and no automation. Applicants must submit the same information and documents year after year, which is discouraging. One possibility to be considered that would reduce delays in processing would be for the MOHSW to adopt a one-stop shop-like facility within its premises to assist professionals to secure permits more timeously. The similar facility for exporters (housed in the Ministry of Trade) has space and staff constraints and cannot offer such services to medical professionals.

E. THE ROLE OF REGULATIONS THAT SUPPORT UNIVERSAL ACCESS TO SERVICES

The first attempt to address access issues came in 1979 with the Public Health Care Strategy. The major goal was to bring services closer to rural and marginalized populations. This was followed by the creation of the health service areas (HSAs). Lesotho was divided into eighteen HSAs based on the catchment areas of existing hospitals. Every hospital in an HSA would be responsible for the supervision of all health centres within its catchment boundaries to ensure their maximum efficiency and outreach.

F. TRADE LIBERALIZATION COMMITMENTS AFFECTING THE SECTOR

As with all other sectors included in Lesotho's schedule of specific commitments, the horizontal commitments will apply to the professional medical services included in the schedule. The services concerned fall under the following subsectors:

- Medical and dental services;
- Veterinary services;
- Services provided by:
 - (i) Midwives and nurses;
 - (ii) Physiotherapists and paramedical personnel.

The horizontal commitments impose that minimum capital outlay requirements and foreign equity requirements for foreign-owned enterprises (including joint ventures with domestic enterprises) apply to

suppliers of the listed subsectors. Furthermore, such enterprises must be empowered to conclude contracts on behalf of the parent enterprise. Automatic entry and work permits are granted for up to four expatriate senior executives and personnel with specialized skills. It should be noted that this would apply to service suppliers in the form of juridical persons other than hospitals, as commitments for hospital services^{xxxii} are taken separately in the case of the GATS (they are a subsector of health-related and social services). This could be the case of doctors, nurses and other medical professionals who provide their services in the context of a private practice without institutional nursing. Where such enterprises providing professional medical services exist, they have an obligation to provide training to locals so that locals may, in future, gain skills and assume specialized roles. No national treatment limitations would be applied to the professional medical services as part of the commitments found in the horizontal section.

For medical and dental services, cross-border supply (mode 1) is left unbound while there are no limitations to liberalization under consumption abroad (mode 2) and commercial presence (mode 3). This implies that professional medical services cannot be provided by foreign service suppliers via ICT or through the mail as could have been the case for tele-diagnosis. With respect to commitments relating to veterinary services as well as services provided by midwives, nurses, physiotherapists and paramedical personnel, Lesotho fully liberalized modes 1, 2 and 3 – cross-border supply, consumption abroad and commercial presence, respectively. The feasibility of the provision of such categories of services through

cross-border supply may, however, be less likely than in the case of medical and dental services. Lesotho made commitments relating to mode 4 according to its horizontal section which implies that automatic entries and work permits will only be granted for up to four expatriate senior executives and specialized skill personnel in relation to the establishment of a commercial presence in the country.

Professional services are not among the priority sectors identified for liberalization within the SADC, but eventually this sector would also be a candidate for liberalization at regional level. As the issues of qualification and licensing requirements are particularly important in these as in other professional categories it is a particularly welcome development that institutional mechanisms have been put in place at the SADC level with a view to examining the issue of mutual recognition. Moreover, given that the process for the mutual recognition of qualification requires significant time and efforts it is a good thing that such work has begun even before SADC countries begin to negotiate liberalization commitments.

G. PROFESSIONAL MEDICAL SERVICES SECTOR: AN ANALYSIS OF STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS

Box 3 highlights a number of strengths, weaknesses, opportunities and threats within the professional medical services sector in Lesotho.

Box 3. Professional medical services sector in Lesotho – strengths, weaknesses, opportunities and threats

Strengths

- Strong partnerships exist between the Government of Lesotho, CHAL, the Red Cross, and private practitioners.
- Prioritization of the health sector by the Government of Lesotho. This is reflected in substantial funding provided by the Government of Lesotho (and managed by the MOHSW) to support the health sector and health-care services.
- Strong network and cadre of community health workers, community councils and counsellors to assist in the provision of health care.
- High level of donor goodwill, commitment and support for the sector.
- Openness to foreign professionals in order to bridge the human resource gap.

Weaknesses

- Poor access to healthcare facilities and services in rural areas and the Lesotho highlands.
- Scarcity of skills in medical and allied professions, particularly in terms of a shortage of pharmacists, medical doctors and dentists. This is exacerbated by limited short-term capacity to increase the supply of health personnel in the country.

- Training institutions offer qualifications at low levels: certificates and diplomas. Only one institution (the National University of Lesotho) offers degree programmes in the medical field.
- Shortage of training programmes for nurses as well as a lack of available institutions to train nurses.
- Low density of health professionals per 1,000 members of the Lesotho population.
- Inequities in resource allocation between health centres, especially districts.
- Weak coordination between the MOHSW, the public service and training institutions.
- Limited domestic capacity to finance health-care programmes and, consequently, an excessive level of dependence on donor financing for expenditure on these programmes (particularly HIV and AIDS programmes), the sustainability of which will be jeopardized in the event of donor withdrawal. This is exacerbated by the financial crises currently plaguing many donor countries.
- Outdated legislation and legislative gaps; some sector operators are excluded from regulation.
- Weak institutions within the sector.
- Professional development is not a determining factor for the renewal of registrations.

Opportunities

- Scope to boost the supply of training to nurses and other health professionals to optimize the efficiency of human resources for the provision of health services.
- Potential for further health sector reform and decentralization of processes.
- Scope to develop cooperation in the form of regional initiatives for the supply of health services with a particular focus on health personnel as part of broader SADC regional integration efforts.
- Potential to develop partnerships with other countries to encourage foreign medical professionals to operate in the country.
- Potential to transfer knowledge and skills among medical professionals operating in Lesotho (both foreign and local professionals).
- Scope to extend the level of harmonization and collaboration between the MOHSW and CHAL.

Threats

- The debilitating burden of the HIV and AIDS pandemic in Lesotho stretches the country's already limited healthcare capacity, especially in terms of the demand for services at the district level.
- In turn, limited capacity and an overburdened health sector affect the effectiveness of efforts to curb diseases.
- Significant 'brain drain' of skilled medical professionals (particularly doctors) threatens the delivery of health services and the quality of health care provided to the Basotho people. This is exacerbated by rising regional and international demand for medical professionals, causing many skilled professionals to migrate to other countries. At the same time, the lack of a retention strategy raises the risk of emigration by medical professionals to other countries in search of greener pastures. Lesotho suffers a net economic loss when medical professionals, trained at the public's expense, migrate.
- Slow progress in the implementation of decentralization strategies and health sector reform processes.

Source: UNCTAD, based on interviews with stakeholders, research and literature review.

SERVICES POLICY REVIEW



TOURISM SERVICES SECTOR

Tourism is recognized as an engine for economic and social development. In addition to producing economic and employment benefits in the tourism sector itself, tourism activities promote the development of related services, as well as of the manufacturing and agriculture sectors. Tourism can also contribute substantially to reducing poverty and empowering women. The employment opportunities created through the sector may extend to youth and migrant workers and, increasingly, persons in remote rural areas with the development of certain niche tourism products relating to non-mass, cultural and ecotourism. In over 150 countries, tourism is one of the top five export earners, and in 60 it is the number one export. It is also the main source of foreign exchange for one third of developing countries and one half of LDCs, where it can account for up to 40 per cent of GDP.

Despite the significant developmental potential of the tourism sector, it is also important to recognize that the sector can generate negative externalities and is vulnerable to external shocks. Tourism's high water and energy requirements may exceed local sustainable limits and displace other economic and social uses of limited water and energy supplies. In localities with fragile ecosystems, tourism's negative environmental impacts can be irreversible, stressing the need for the prevention of negative impacts. Moreover, tourism activities are extremely vulnerable to external shocks. The tourism sector's share of GDP and exports can easily be affected by decreased demand associated with global economic slowdowns, epidemics, natural disasters, political instability and terrorism, which also calls for associated mitigation measures and social safety nets for those working in the tourism sector.

A. ROLE AND PERFORMANCE OF THE TOURISM SERVICES SECTOR IN LESOTHO

Since the country gained independence in 1966, the Government of Lesotho has sought to promote tourism as a key element of strategies for national development. This has been underpinned by the introduction of several tourism development policies and strategies to support broader efforts to develop the economy of Lesotho. However, formal tourism policies for the sector existed only after the second democratic elections in 1992. Following the formation of the Lesotho National Tourism Development Plan

in 1994, which focused on the social and economic development potential of tourism in the country, the Lesotho National Tourism Policy (Tourism Policy 2001) was formulated by the tourism sector in partnership with stakeholders from NGOs, the private sector and civil society.⁶⁴ Thereafter, the Government of Lesotho began a tourism strategic planning process in 2006 which dealt with inter alia the development of tourism development zones and an enhanced institutional framework for the entire sector.⁶⁵ In 2007 the LTDC developed a national tourism strategy (Lesotho 2010 Tourism Strategy: Towards 2020) as part of efforts to remove obstacles hampering the development of the sector and to enable the tourism sector to reach its full potential.⁶⁶ This has included efforts to promote Lesotho as "high-mountain Africa", offering unique culture, adventure, pure air, water and scenery associated with the mountainous topography of the country.^{xxxiii}

Today, Lesotho's broad tourism sector is comprised of a number of subsectors including accommodation (hotels, lodges, casinos, self-catering facilities, bed and breakfast facilities and village stay accommodation) national parks and reserves, ecotourism, cultural heritage, outdoor activities, routes and tours.⁶⁷ These subsectors can be broadly categorized into the following three segments:

- Ecotourism, adventure tourism, health tourism, and cultural heritage;
- Business travel;
- Leisure (including holidays to non-traditional destinations).

Ecotourism, in particular, represents an important subsector for Lesotho in the international tourist market. Already, up to 20 per cent of the country's international tourist arrivals fall within the ecotourism segment. The development of ecotourism is considered to be particularly beneficial from an economic development perspective, given that the subsector tends to be dominated by small-scale, community-led tourism operations. At the same time, given the country's cultural traditions and its variety of unique natural features, it is well placed to offer events-based tourism services focused on adventure, cultural and lifestyle events.⁶⁸

In addition, the business tourism segment has been identified as an area in which there is great potential for Lesotho to enhance its tourism services offerings. In this respect, the Government of Lesotho has

already prioritized efforts to promote Maseru as a destination for government meetings and multilateral engagements, conferences and business meetings.⁶⁹ Capacity within Lesotho to host conferences and business meetings has grown steadily in recent years, and the country now boasts a total of 13 conference venues, with many hotels offering conference facilities. The country also boasts one convention centre, the Manthabiseng Convention Centre, owned by the Ministry of Tourism, Environment and Culture (MTEC), which can host a total of 1,160 people in four different halls. Government workshops and conferences are already a major source of income for hotels in Lesotho. Indeed, in the case of the majority of the hotels in the country, 90–95 per cent of their business is generated through the hosting of government workshops and conferences.⁷⁰ These workshops and conferences have become “easy cash cows” for tourism enterprises given that they do not need to source the business and the business is considered to be fairly predictable on a seasonal basis.⁷¹

1. The contribution of tourism services to the national economy

Tourism has significant potential to contribute meaningfully to economic growth and generate employment opportunities in Lesotho. In terms of the latter, the labour-intensive nature of the sector means that it can create many direct and indirect jobs. In this regard, the tourism sector is well-placed to impact positively on poverty reduction and the empowerment of women.⁷² In this respect, the development of tourism can result in a number of “pro-poor effects” that contribute to poverty alleviation. For instance, the development of tourism in the country can result in economic gains associated with the creation of full or part-time employment opportunities, or, through the development of income-generating opportunities, for SMEs to boost sales of tourism-related products to tourism businesses or tourists.⁷³ Furthermore, the development of tourism-related infrastructure can bring about improvements in areas such as the quality of road infrastructure and accessibility to remote areas, access to potable water and access to health care facilities.

Similarly, the importance of the sector from a rural development perspective cannot be underestimated. Niche tourism products such as cultural tourism and ecotourism can serve as income-generating activities

for youths, migrant workers and individuals based in remote rural areas.⁷⁴ The expansion of tourism in the country through investments in major hotel developments in both urban and rural areas has already meant that the sector represents an important source of job opportunities and employment for the Basotho people.⁷⁵ By 2021, it is estimated that the contribution of travel and tourism to employment in Lesotho, including jobs both directly and indirectly supported by the sector, will account for 5.9 per cent of total employment in the country.⁷⁶ Taken together, it is clear that the tourism sector can play an important role in advancing efforts to reach the targets enshrined in the MDGs.

At the same time, the high share of SMEs in Lesotho’s tourism sector is important from a national economic development perspective. Indeed, in comparison with other sectors (commercial farming, finance, agro-processing, industry, manufacturing and retail) the tourism sector boasts a relatively high proportion of SMEs – which are estimated to account for approximately 55 per cent of the enterprises operating in the sector.⁷⁷

Despite this potential, a number of areas have been identified as requiring further attention in order to boost the contribution of the sector to the national economy. These include the need to distinguish Lesotho from key competitor destinations, develop new tourism products and diversify the country’s tourism product base. These are seen as important elements in efforts to increase the length of stay of tourists in the country and induce a higher level of tourist expenditure per visitor. More generally, it has also been noted that there is a need to create an enabling environment for rapid tourism growth, improve visitor access to and within Lesotho, and establish appropriate policy, planning, and legal frameworks to manage the tourism sector in the country.

It has been argued that the expansion of the sector is currently affected by the presence of anti-competitive practices. These include the monopolization of the hotel market by government workshops and conferences, the marketing of tourism products that actually do not exist or have no effective management, and inconsistencies in licensing that have seen some tourist properties being licensed that are not yet ready to serve tourists.⁷⁸ Furthermore, the limited access of players within the tourism sector to travel distribution systems, such as information technology, has been highlighted as a potential constraint to growth. In this

respect, previous studies have shown that relatively few tourism enterprises operating in the country have a website (22 per cent in 2004) or use email (49 per cent).⁷⁹ These levels of usage of information technology are “very low for an industry that is increasingly relying upon such technologies for exposure, bookings and general marketing”.⁸⁰ Finally, despite the strategic importance of the tourism sector from an economic development perspective, it has been argued that, to date, due to limitations in infrastructure development, developing countries are sometimes not able to fully capitalize on the potential of its tourism sector.⁸¹ These limitations include poor quality of the road infrastructure leading to the tourist sites, and inconsistency in basic services such as electricity and water.

2. Economic performance of the tourism services sector

Back in 2007, the Government of Lesotho – through the MTEC – acknowledged that the contribution of the tourism sector to national GDP could be improved and that there had been stagnation in the growth of the sector due to the reality that Lesotho had not managed to fully capitalize on its abundant tourism assets (which include natural resources, great potential for outdoor activities and the rich Basotho culture). The performance of the sector in Lesotho has also been constrained by limited progress in diversifying source markets for tourist arrivals, with the country continuing to rely heavily on the South African market.⁸²

Moreover, in global terms, Lesotho ranks poorly in the World Economic Forum Travel and Tourism Competitiveness Index. Specifically, Lesotho was ranked in a low 135th position out of 139 countries in the Forum’s 2011 Index,⁸³ with the travel and tourism sectors in the majority of the other African LDCs outperforming the sector in Lesotho. Indeed, only Mauritania, Burundi, Angola and Chad were ranked below Lesotho in the Index. Lesotho ranked 26th out of 30 countries on the regional Index for sub-Saharan Africa.⁸⁴

Nevertheless, the tourism services sector is already an important contributor to GDP in Lesotho. Between 2009 and 2011, the total monetary contribution of the travel and tourism sector in Lesotho exceeded M 1 billion. This was primarily driven by activities in the hotels, travel agents, and airline and other passenger transportation services industries.⁸⁵

Growth rates in the contribution of the tourism services sector to national GDP have fluctuated significantly in recent years, expanding considerably in some years and contracting in others. In general, these growth rates fluctuated most significantly between 2005 and 2007 and began to stabilize from 2008 onwards. This volatility stemmed primarily from sharp fluctuations in the numbers of visitors to Lesotho over this period and, correspondingly, significant differences in the income generated. Hospitality and good quality services have been highlighted as key contributory factors to the stabilisation and growth in the sector since 2008. However, according to the World Travel and Tourism Council (WTTC), in comparison with competing tourist destinations in Africa, Lesotho lagged behind nine other African countries (South Africa, Kenya, the United Republic of Tanzania, Senegal, Namibia, Botswana, Zimbabwe, Swaziland, and the Gambia) and the world average in terms of the contribution of the sector to GDP.⁸⁶

Much of the revenue that Lesotho derives from the tourism sector stems from international tourists visiting Lesotho for overnight stays. Revenue from international overnight visitors has increased significantly since 2005, expanding from M 131 million in 2005 to an estimated M 336 million in 2011.⁸⁷ The substantial rise in revenue from international visitor arrivals points to a rapidly expanding tourism economy in Lesotho.⁸⁸

Table 13 highlights the trends in international tourist arrivals in Lesotho in 2009 and 2010 by specific source markets. Currently, South Africans dominate the influx of international tourist visitors to Lesotho. From 2007–2008, 85–90 per cent of foreign visitors to Lesotho were South African.⁸⁹ This is unsurprising given the fact that Lesotho is wholly enclosed within South Africa, with easy access via rail, road or air from South Africa into Lesotho. Other leading source markets for foreign visitors to Lesotho are Botswana, China, France, Germany, the Netherlands, Swaziland, the United Kingdom of Great Britain and Northern Ireland and the United States of America.⁹⁰ However, while tourist arrivals from South Africa continue to increase, rising by approximately 30 per cent in 2010, arrivals from almost all other countries declined in 2010.⁹¹

Turning to employment within the tourism sector, according to the WTTC, in 2010 the total contribution of travel and tourism to employment in Lesotho (both direct and indirect) was approximately 36,000. In financial terms, the total contribution is estimated to have grown from M 5.7 million in 2005 to M 15.2 million in 2009.

Table 13. International tourist arrivals in Lesotho by country of residence, 2009 and 2010

Rank (2010)	Country	2009	2010	Difference	Percentage change
1	South Africa	302 655	390 849	+88 194	29.1
2	Other Europe	5 832	4 582	-1 250	-21.4
3	Germany	5 017	4 425	-592	-11.8
4	Netherlands	4 257	3 886	-371	-8.7
5	United Kingdom	4 620	3 826	-794	-17.2
6	Zimbabwe	4 513	3 819	-694	-15.4
7	United States of America	3 212	3 077	-135	-4.2
8	Other Africa	2 349	2 319	-30	-1.3
9	Other Asia	2 772	2 210	-562	-20.3
10	Botswana	2 060	1 922	-138	-6.7
11	China	2 233	1 596	-637	-28.5
12	Swaziland	1 406	874	-532	-37.8
13	Zambia	806	707	-99	-12.3
14	Canada	805	662	-143	-17.8
15	Malawi	430	333	-97	-22.6
16	India	256	285	+29	11.3
17	Other America	105	168	+63	60
18	Taiwan, Province of China	145	132	-13	-89
19	Middle East	177	70	-107	-60.5

Source: Lesotho Tourism Development Corporation, Department of Research and Development (2010).

The WTTC also states that in 2011 the travel and tourism sector in Lesotho is expected to generate up to 14,000 direct jobs. This expansion is expected to be driven by employment in hotels, travel agencies, airlines and other passenger transportation services, restaurants and leisure industries. However, there remain gaps in skills within the existing workforce that could serve to constrain future growth in employment. These include shortages of skills required in the catering and hospitality industries, in areas such as tour guides, in front office operations, facility management and the operation of niche tourism activities such as ecotourism and sports tourism.⁹²

The accommodation industry is an important source of employment within the broad tourism sector. In 2008, a total of 2,195 people were employed in the accommodation industry in Lesotho, with 73 per cent of these employed in hotels, followed by 15.8 per cent and 11.2 per cent employed in lodges and

other types of accommodation establishments, respectively.⁹³ This total figure increased to 2,626 in 2009. This was, however, followed by a 5.6 per cent decline in employment in Lesotho's accommodation industry in 2010, with the number of people employed in accommodation establishments declining to 2,480.

3. Trends in trade and investment in the tourism services sector

In nominal terms, the value of visitor exports in Lesotho is expected to reach M 338.6 million in 2011 and is forecast to triple by 2021 to M 950.9 million.⁹⁴ There has, however, been significant variation in the growth rates of visitor exports since 2005. Specifically, visitor exports contracted in 2005 (by 41.3 per cent), 2008 (by 40.9 per cent) and 2010 (by 13.5 per cent).⁹⁵ The contractions in 2008 and 2010 may have stemmed

from the adverse effects of the global economic crisis on the volume of global tourist travel. In contrast, growth was strongest in 2009, when visitor exports grew by 58.2 per cent.⁹⁶ Lesotho's estimated growth rate of visitor exports for 2011 is 4.3 per cent and this is forecast to reach 5.8 per cent by 2021.⁹⁷

Turning to investment, FDI in the form of major hotels and smaller resorts developed by foreign investors and operated in Lesotho by local residents has made an important contribution to economic development, both by expanding the availability of holiday accommodation and by generating employment. This has seen foreign participation reach significant levels in certain segments of the tourism sector in Lesotho. For example, most major hotel developments within both urban (for example, the two Sun International hotels) and rural (for example, small resort-type hotels) areas involve foreign capital. Recent investments also include the M 45 million South Africa-owned Afriski resort in the north-east of the country, as well as the luxury Maliba mountain lodge in the Tselanyanne National Park.⁹⁸

From 2006, the number of new entrants to the accommodation industry in Lesotho increased, but this growth has been confined mostly to the capital city of Maseru.⁹⁹ This has been driven primarily by growth each year in the number of other types of accommodation establishments outside that of traditional hotels and lodges. In contrast, the number of hotels in Lesotho has remained unchanged since 2008, suggesting that no new investments had been made in this component of the accommodation industry.¹⁰⁰ Furthermore, the last new lodge was established in 2009.¹⁰¹ As of 2010, there were a total of 137 accommodation establishments in Lesotho. This figure was comprised of 20 hotels, 23 lodges and 94 other types of accommodation establishments.

Looking ahead, reforms to the regulatory framework governing the tourism sector have been identified as a key area requiring attention. Collaborative efforts involving multiple stakeholders – including the MTEC, Ministry of Local Government, communities and the private sector – are looking to improve the accessibility of the tourism sector to both domestic and foreign investors. These efforts will focus on the development of an investor-friendly investment framework and concessions to attract and sustain the necessary investment levels. Furthermore, the Government of Lesotho has resolved to support tourism development through the creation of guidelines

and parameters for mutually beneficial partnerships between big businesses, small businesses and local communities.¹⁰²

Lesotho's tourism strategy up to the year 2020 makes additional suggestions in lieu of changes that are required within the regulatory environment governing the sector. These include the need to review and evaluate the Tourism Act and accommodate changes to the Act where necessary. Essentially, this is intended to ensure that the Act remains aligned with Lesotho's new tourism strategy and speaks to responsible tourism growth in the country. In this respect, it has been suggested that there is a need for existing licensing procedures and practices in the tourism sector to be simplified and harmonized. Furthermore, the development of an appropriate regulatory framework for tour operations in the country has been identified by the Government as a necessity.¹⁰³

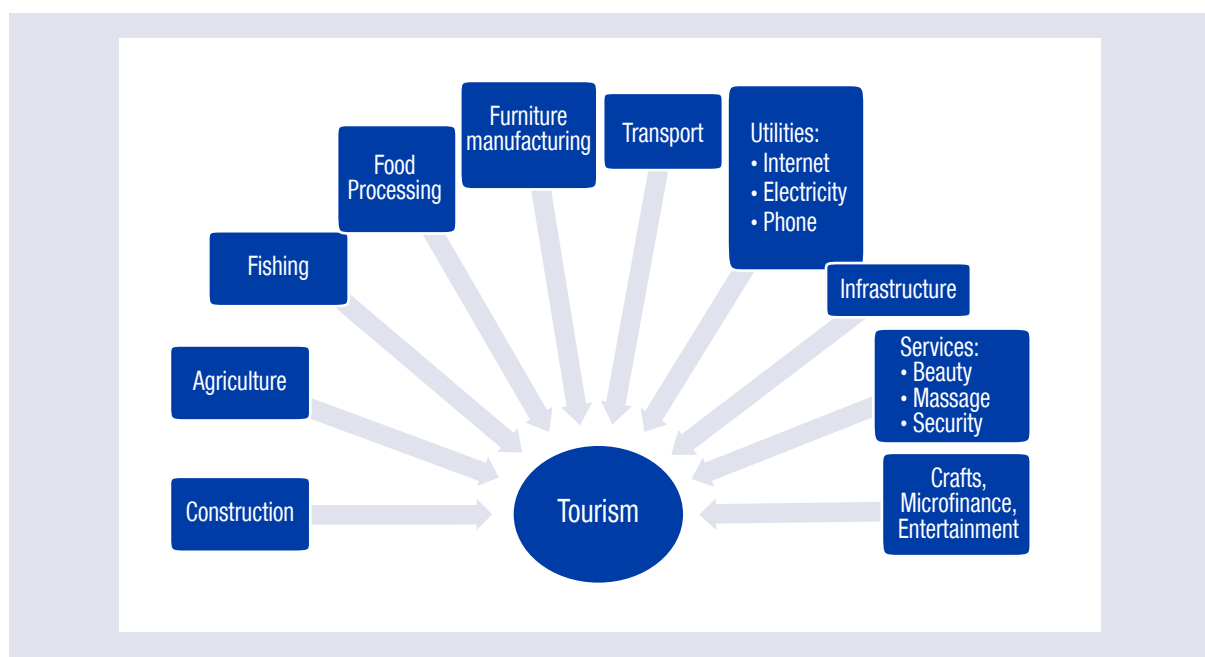
The Government of Lesotho has prioritized a number of areas in which improvements are required in order to boost trade and investment within the tourism sector and ensure that the sector serves as a catalyst for economic growth and development in Lesotho. These include the following:

- Upgrading skills in the sector and supporting education to provide necessary technical and vocational training;
- Creating an enabling environment for private sector investment, particularly with respect to basic infrastructure (road, electricity, communication and water) and providing appropriate incentives;
- Developing sustainable tourism;^{xxxiv}
- Introducing new regulations such as limits on foreign ownership, requirements for training and development of local staff, and reforming requirements with respect to land ownership.

4. Linkages with other sectors

The tourism sector in Lesotho already boasts a number of linkages with other economic sectors (figure 15). The sector has backward linkages with basic infrastructure services such as energy, telecommunications and environmental services, and agricultural, manufacturing and construction services.

In turn, forward linkages have been established with sectors supplying services that are consumed by tourists such as financial, telecommunications, retail,

Figure 15. Existing linkages between the tourism sector and other economic sectors

Source: Lesotho SPR first National Stakeholder Workshop, 28–29 September 2011.

recreational, cultural, personal, hospitality, security and health services.¹⁰⁴ In this respect, tourism services make up a crucial component of the country's overall policy of economic diversification,¹⁰⁵ particularly with respect to the sector's potential role in creating value chains in other sectors.¹⁰⁶

Despite these existing linkages, there is still room to extend linkages with Lesotho's other economic sectors. In cases where linkages between tourism and other sectors in Lesotho remain weak, there is a need for government policies to focus on stimulating the development of supply capacity in national markets and the availability and further development of tourism-supporting infrastructure (airports, ports, roads and hospitals) and quality basic services (financial, telecommunications, water, energy, sanitation and health services). It has been argued that only when suppliers of tourism services have appropriate access to these inputs will they be in a position to offer tourism products at more competitive prices.¹⁰⁷

In order to strengthen the relationship between tourism and other economic sectors, the linkages at regional level would have to be prioritized. Lesotho can benefit significantly from tourists that visit South Africa and other countries within the Southern African region, and include a visit to Lesotho during the course of their trips.

Several institutional and regulatory frameworks currently exist at the regional level with a view to establishing a positive environment for the development of the tourism sector and enhance the regional attractiveness to investment. For instance, the Regional Tourism Organization of Southern Africa was established to promote and market the SADC region as a tourism destination.

In addition, the regional agenda under the SADC Protocol on Tourism seeks to enhance cooperation among member states in tourism education policy, training institutions and standards. A requirement also exists to create a unified system of collection and analysis of tourism statistical data, based on guidelines established by the World Tourism Organization. The SADC Protocol on Tourism also indicates that member states shall create a regional tourism research and statistics and information exchange network, and individually or jointly undertake product development and diversification initiatives through private and public sector cooperation with a view to enriching the region's product range. However, it appears that several regional initiatives (such as the ones mentioned before or the harmonization of standards for providers) have not been fully implemented to date. Prioritizing the regional path to leverage tourism development will require additional concerted efforts within SADC.

B. INVENTORY OF LEGISLATION, REGULATIONS, INSTITUTIONS AND POLICY MEASURES

Lesotho has always recognized the potential for tourism development to have a positive effect on overall economic development. This is why there has been a policy or a plan on tourism since 1973, when the Development Plan for Tourism for the Kingdom of Lesotho was developed and carried out between September 1973 and February 1974. Following this first policy, many tourism-related acts were promulgated, such as the Lotteries Act, the Betting Control Act and the Casino Act. This first policy was revised and amended in 1994 with the support of the European Union. This was, in part, because of the dismantling of apartheid in South Africa and the resultant surge in inflows of tourists into this country. There was a need to revise how Lesotho could position itself to benefit from the change of events. The Accommodation, Catering and Tourism Establishment Act was enacted three years later to encourage the establishment of tourism enterprises. Policy revision came again when the National Tourism Policy was formulated in 2000 by the then Ministry of Tourism, Sports and Culture, with technical assistance from the United Nations World Tourism Organization (UNWTO). There was a marked shift in policy towards guarding against the possible negative consequences of tourism development. This objective was buttressed by the enactment of the Environment Act (2008), which seeks to avoid environmental degradation as a consequence of tourism development.

1. Tourism legislation

Accommodation, Catering and Tourism Enterprises Act No. 13 of 1997

The Act provides for the regulation of accommodation, catering and other tourism enterprises. It makes it an offence for a person to carry out an accommodation, catering or tourism enterprise without a licence from the Accommodation, Catering and Tourism Board. The Act is in the process of being overhauled with the main objective of dismantling the Board, because its licensing procedure is too cumbersome and not cost effective. The Board travels from district to district dealing with licensing issues and meets for

several days on a quarterly basis. The idea is to replace the board with an official at the One-Stop Business Facilitation Centre (OBFC) housed in the MTICM. However, steps to begin the changes are still in the preliminary stages and the MTEC is undertaking further investigations on the modalities to be adopted.

Another reason for seeking the overhaul of the Act is that its provisions inhibit tourism development. Its requirements for compliant accommodation, for example, are too inflexible and detailed. The requirements prescribe the precise structure of buildings, their size, layout and even furnishings that accommodation has to have in order to qualify for a licence under the Act. They do not leave it up to investors to choose their own designs and architecture and this is both unreasonable and unnecessary and may discourage potential investors. Furthermore, the new Act that will replace the current one will accommodate a grading system that, it is hoped, will encourage more visitors to the country. A consultant was engaged and the Grading Manual has been compiled and is awaiting final approval before it can be implemented.

Tourism Act No. 4 of 2002

The Act was passed to provide for the promotion and development of the tourism industry. It establishes the LTDC and provides for its duties. However, the problem with the activities that the LTDC has been tasked with is that they are too numerous and also some are better suited to be executed by the MTEC as the policy-making body. For example, the Ministry, and not LTDC, should develop the National Tourism Plan. The LTDC role should be to implement the plan in its role as implementing arm of the Ministry.

To develop tourism services in the country, section 24 allows the Minister of MTEC, in consultation with the Minister of Local Government, to designate certain areas as tourism development areas (TDAs). These areas are then subject to planning restrictions and may enjoy financial assistance in the form of grants, loans or exemptions. These areas are meant to house projects providing tourist amenities, preservation of sites of cultural significance, or the promotion of cultural activities. This is an inducement that is meant to lure developers into taking advantage of the incentives in order to develop tourism in the country. Areas have been identified in Maseru, Katse and Mohale, the

LHWP dams, Mahlasela, Malealea, Semonkong, Sehlabathebe National Park, Quthing, Sani Top and the King Moshoeshoe Historical Route (figure 16).

The TDAs have experienced mixed success. For example, at Mahlasela a ski resort has been built, but although other investors have expressed the desire to build a spa and conference centre in the area further development has not been forthcoming. This is due in part to the inability of investors to secure credit from their banks to invest in the area due to the fact that they only hold subleases and not leases of the land where they propose to develop. Very few tourist facilities have been established in both Katse and Mohale. With the help of the Private Sector Competitiveness and Economic Diversification Project (PSCEDP), the Sehlabathebe National Park has been developed but is awaiting management. Thaba Bosiu, in the King Moshoeshoe Historical Route, has very impressive tourism structures but is still lying unopened and unused while management is sought. Most TDAs are selected on the basis of scenic beauty and environmental surroundings as well as the potential for certain tourism activities. However, a problem that arises when it comes to attracting investment in these areas is that often they are in places which lack access to roads, water or power. Therefore, although the interest may be there, without the supporting infrastructure, development does not take place.

Tourism (Amendment) Act No. 1 of 2006

The Tourism Act was amended to clarify the relationship between the Ministry and the LTDC, as well as to make provision for the creation of a Tourism Development Fund. The Fund was envisioned as a pool for levies from tourism enterprises to be deposited for use in tourism development in Lesotho. However, despite the statutory provision, the Fund has still not been created to date.

2. Tourism-related legislation

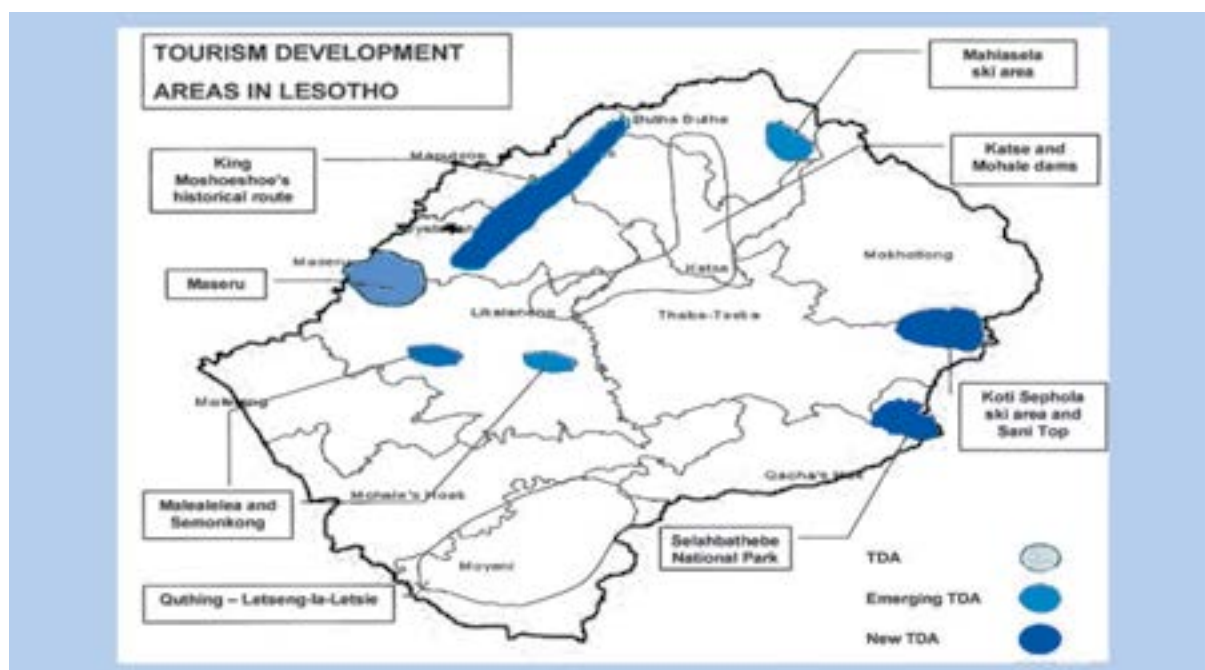
The Historical Monuments, Relics, Fauna and Flora Act No. 41 of 1967

This is a very outdated Act which was meant to provide for the protection and preservation of monuments, relics, antiques, fauna and flora. The Act is currently in the process of being repealed to make way for a new law which will be called the Heritage Resources Act. Its function will be to protect sites with heritage significance in order to protect the heritage of Basotho.

The Pioneer Industries Encouragement Act No. 19 of 1969

The purpose of the Act is to, inter alia, provide tax incentives for hotel and casino-keepers establishing or expanding their operations in Lesotho.” It creates the

Figure 16. Tourism development areas in Lesotho



Source: Tourism Masterplan, 2007.

Pioneer Industries Board whose function is to grant such approvals. Applicants for hotels and casinos must be Lesotho companies or cooperatives seeking to establish or expand an undertaking. Approved hotels and casinos are eligible to make certain tax deductions. These fiscal incentives could thus contribute positively to the development of hotels and casinos in Lesotho for the good of the tourism industry.

Lotteries Act No. 10 of 1975

The Act regulates the conduct of state as well as private lotteries. The Minister of Finance and Development Planning is empowered to conduct state lotteries. The Minister may also issue licences to promoters to establish and conduct private lotteries.

Betting Control Act No. 21 of 1975

The Act regulates totalizators^{xxxv} and bookmakers.^{xxxvi} They are regulated by the Minister of Finance and Development Planning. The Ministry is looking into combining the provisions of the Lotteries Act and of the Betting Control Act into a single piece of legislation, because the areas are similar and thus it is felt that there is no need to have multiple legislation on related activities.

The Basotho Enterprises Development Corporation Act No. 9 of 1980

The Act established BEDCO to promote the development of Basotho-owned enterprises and of indigenous entrepreneurial skills. It can play a role in tourism development by equipping local people and SMEs to start and expand tourism enterprises.

Casino Order No. 4 of 1989

The Act provides for the management, control and licensing of casinos. It established the Casino Board which issues, amends, renews, suspends and revokes licences.

Lesotho National Development Corporation Order No. 13 of 1990

The Lesotho National Development Corporation (LNDC) primarily concentrates on the promotion of industrial investment and development, mostly through FDI. However, the Corporation also has a role in tourism development.

Liquor Licensing Act No. 8 of 1998

The MTEC is planning to halt its liquor licensing and to have such establishments licensed by the MTICM because

the Ministry finds the issue of liquor licensing to not be central to its mandate. The MTEC wishes the MTICM to reciprocate by ceasing its licensing of tour operators and tour guides and transferring such duty to the MTEC, since it is more in line with its sphere of influence.

Environment Act No. 10 of 2008

This is an Act “to make provision for the protection and management of the environment and conservation and the sustainable utilization of natural resources of Lesotho”. The Act establishes the National Environment Council to set policies and priorities for environmental protection, on the recommendations of the Minister, and to ensure the harmonization of cross-sectoral plans and policies as well as the coordination of ministries, the private sector and other organizations engaged in environmental programmes. The Environment Coordinating Committee is to focus on ensuring that coordination takes place between ministries and other organizations, and that procedures exist for prompt consultation and information sharing. Every ministry is to have an environmental unit in-house with the responsibility of ensuring that the line ministries comply with the Act. A National Environment Action Plan is to be devised every five years to form the basis of environment planning and programmes. The structure that is created in the Act is very impressive and touches all the bases to ensure that coordination and efficiency is achieved. However, none of the entities that have been created under the Act exist in practice. The MTEC must prioritize the implementation of these structures if the goals of the Act are to be attained.

The Act provides that an environmental impact assessment (EIA), or project brief, shall be undertaken for tourism projects. Projects are approved if, to the satisfaction of the Department of Environment (DOE), the project will not have any significant impact on the environment.

The Land Act No. 8 of 2010

The land tenure system is a leasehold system rather than a freehold system. Leases for residential land are for thirty years, renewable, while leases for commercial sites are for sixty years. Allocation of a commercial site cannot be effected until it has been considered and recommended by the MTICM. A new innovation brought about by the Act is that it is now possible for a foreign national to be allocated a lease but that requires approval from the Ministry of Local Government and Chieftainship (MLG).

3. Regulations

Betting Control Regulations No. 5 of 1976

Casino Regulations No. 146 of 1990

Accommodation, Catering and Tourism Enterprises Regulations No. 4 of 1999

Liquor Licensing Regulations No. 5 of 1999

The above regulations contain relevant application forms and fees for the licences required under the governing Acts. The fees are very low and would not be a hindrance to potential investors. The trend with accommodation and liquor establishments is that the regulations differentiate in fees depending on whether an establishment is in the rural or urban areas (making it cheaper to run an establishment in the former). This is supposed to be an incentive to locate developments in the rural areas so that rural populations can also potentially benefit from employment and tourism development. Larger establishments also have steeper fees.

4. Legislative gaps and inadequacies

A general observation is that Lesotho's tourism legislation and regulations are very outdated and their provisions have not kept pace with industry developments. Laws that have not been amended since the 1960s and 1970s cannot meet the demands of the industry today and do not allow Lesotho to be competitive in terms of tourism products. Furthermore, there are some tourism subsectors which are completely devoid of regulation. These are travel agencies, tour operator services and tourist guide services. These are not regulated or licensed by the MTEC, but instead by the MTICM, even though they should rightly fall under the supervisory responsibility of the former Ministry. The MTEC is taking steps to have these sectors at least brought under their licensing umbrella in the near future, and to have a law governing their regulation in the medium term.

The current licensing system also inhibits the operations of tour operators. The licence does not empower a tour operator to generally operate tours around the country. For every tour they must be granted a public service licence from the Ministry of Public Works and Transport (MPWT) and the licence restricts them to a particular route. This limits their ability to expand their service delivery. The li-

cence should allow them to generally provide tours following different routes according to the needs of their clients.

There is also fragmentation in terms of licensing in some tourism subsectors, for example, food serving services. Currently, only restaurants are licensed by the MTEC, while the smaller food serving establishments, such as snack bars and refreshment stands, are licensed by other ministries, such as the MTICM. Therefore, establishments that should fall under the same sectoral umbrella are subject to different licensing requirements and procedures. This fragmentation should be brought to an end by having all food serving establishments, regardless of their size, licensed and regulated under one Act, The Accommodation, Catering and Tourism Enterprises Act.

Furthermore, there is no policy on the implementation of community beneficiary programmes by investors to encourage them to ensure that tourism activities positively contribute to the development of the areas in which they are undertaken. This leads to the potential poverty reduction impact of tourism development not being fully realized. However, there are some success stories in Lesotho where partnerships have been formed between operators and the community, leading to positive results for both. For example, at Malealea in the Mafeteng district, the lodge owners use the horses of local people for tourist pony trekking, and hire locals as tour guides to give local tours. Produce is bought from the local farms and community homes are used for stopovers during long treks. A local band entertains guests at the lodge every evening. The lodge even has a fund that contributes to projects in the community.¹⁰⁸ These types of arrangements might increase and be more effective if there was a deliberate policy to encourage them. However, the arrangement should not form the subject of any mandatory requirement as that might have the opposite effect of discouraging investment. Moreover, any such collaboration should not add to the operating costs of the operator.

The absence of regulations on grading hampers growth in the sector. If tourism products are to be effectively marketed then they must be capable of objective quality assessment, preferably by reference to international standards. A Grading Manual has been prepared but is yet to be implemented due to lack of human resources and the requisite institutional framework to implement it.

The laws on land ownership in Lesotho have improved because, in the past, foreign nationals could not own title to land in Lesotho. This is now possible with ministerial consent from the MLG. However, this is

still not a guarantee to all investors that they will be given leases in Lesotho. The result is that this poses an impediment to the attraction of FDI into the tourism sector because, many times, in order for an investor to be granted credit by a bank to develop a tourist site, the bank will want evidence of ownership of the land where the facility is to be situated. This has been the case with many potential investors in the Afri-ski resort project in Mokhotlong who were unable to access financing from their South African banks because they did not have a lease, but only a sublease from the MTEC.

Lesotho's environmental management laws do not restrict adventure activities within sensitive areas such as biodiversity. In South Africa, by comparison, activities such as quad biking are limited to demarcated areas. In Lesotho tourists engage in such activities in any place, unrestricted. This has led to the destruction of flora and fauna. For example, many tourists enter Lesotho through the Sani Pass border post in the KwaZulu-Natal province into Mokhotlong in Lesotho for adventure sports such as quad biking and off-road driving. There are no restrictions on the routes that must be followed and, as a result, some have driven through wetlands and have destroyed flora, such as the spiral aloe, which is endemic to Lesotho. Sustainable tourism development requires the establishment of environmental protection standards and environmental impact assessment guidelines. However, no regulations have been made under the Environment Act on these issues. Guidelines on EIAs and standards for tourism activities are only currently being drafted and are at the very early stages of the drafting exercise.

There are implementation problems when it comes to enforcing the Liquor Licensing Act. There are many premises which don't have licences. The MTEC, police and the Maseru City Council are responsible for monitoring compliance with the Act, but lack of funds hampers such monitoring and inspection. The MTEC is seeking an amendment to the law, which would allow the Minister to be empowered to freeze the issuance of licences for a certain period of time while they catch up with legitimizing those that are already operating. It is envisaged that this would also control the spread of such establishments, a desirable option given the negative social consequences associated with them such as under-age and public drinking.

The Tourism Act overburdens the LTDC with too many functions and also allocates functions to it which should be in the domain of the MTEC. This has been the cause of some strife between the two institutions.

The Act at times gives the Corporation functions that it cannot fulfil, for example section 4(f) of the Act – to provide, maintain and safeguard employment in the tourism industry. At best, the LTDC can only facilitate employment but cannot provide it. The Act should also not give the Corporation policy-making functions, as that lies in the domain of the Ministry.

5. Institutions

Effective institutions are crucial in encouraging the growth and development of the tourism sector. Policymaking institutions must devise sound strategies and the executing agencies must be equipped to be efficient and effective in their implementation role. The main institutions for the tourism sector in Lesotho are the MTEC and the LTDC. However, there are other institutions which also play a role in the development of the sector.

The Ministry of Tourism, Environment and Culture^{xxxvii}

A tourism ministry has existed in Lesotho since its independence in 1966. The current MTEC was gazetted in 2004 to replace the former Ministry of Tourism, Sports and Culture. It was allocated M 53.8 million for the 2011/2012 fiscal year. It is the policy-making institution which is responsible for the creation of an enabling tourism policy, laws and operating environment. It is responsible for monitoring the implementation of policies and strategies by the LTDC, ensuring compliance with product standards (for example, by inspections of tourism establishments) and issuing licences to sector operators. The office for EIA clearance needs to be capacitated in terms of staffing if it is to be more effective in ensuring that tourism is developed in an environmentally sensitive manner. Currently, there are three staff members who are responsible for reviewing project briefs, issuing clearances and monitoring projects.

Lesotho Tourism Development Corporation^{xxxviii}

The LTDC was created in 2002 as the executing agency of the MTEC. The Corporation promotes Lesotho as a tourist destination. It works to attract tourism investment, and is involved in product development to ensure that tourism products are of a standard that is attractive to tourists. Some of the impediments that the Corporation faces in being effective in its mandate include the following:

- There are no tourism-specific incentives to attract investment in the sector. A reduced income tax rate

Table 14. Starting a business in Lesotho

	Procedures	Days	Cost (GNlpc)	Minimum capital	Rank (out of 183)
Lesotho	7	40	26.0	12.0	140
South Africa	6	22	6.0	0	75

Source: World Bank (2010).

of 15 per cent (from 35 per cent) has just been approved for the tourism industry by the MFDP but has not as yet been implemented. This makes it difficult for the Corporation to induce investment into the sector. The investment incentive framework in manufacturing industries is much more developed and, hence, has achieved greater success in attracting investment in comparison with the tourism sector.

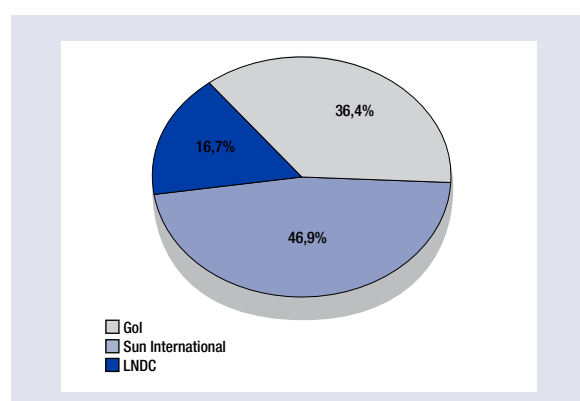
- The business climate in general in Lesotho is not conducive for attracting investors. The country suffers from problems such as delays in registering companies, high tax rates and high cost of credit, which also hampers investment promotion by the LTDC. Table 14 compares the length of time and cost of starting a business in Lesotho with that required in South Africa.

Steps to rectify the time and cost impediments have started with the creation of the OBFC, housed in the MTICM. The facility brings together officials from the LRA, the Ministry of Home Affairs (MOHA) and the Ministry of Labour and Employment to bring together and deliver a streamlined and integrated suite of business services for enterprises and investors. In this way the OBFC contributes to the investment climate, the ease of doing business, and the facilitation of increased trade and investment in Lesotho. The reforms aim at halving the costs of registering a company and reducing the process from taking twenty days to one day.

- Infrastructural development is inadequate and the country is not able to offer investors serviced sites. Many areas which have the potential for tourism development lack access to roads, electricity and communications infrastructure. The problem is further exacerbated by the fact that there is lack of coordination by the institutions providing such infrastructure.
- There are other institutions that purport to have a tourism promotion mandate and they sometimes encroach upon the work of the LTDC, sometimes causing duplication of efforts or even hampering the work of the Corporation. For example, the LHWP believes that it is solely responsible for promoting tourism in its project areas.

- The Corporation has limited funding. It survives on government subvention, which generally only manages to cover the cost of salaries and administration. This leaves very little income to promote tourism. The Corporation is expected to raise or source funds for its activities and it has not always been successful in doing so. For example, they have been unable to conduct feasibility studies for some of the projects they are attempting to sell to investors and they have been unable to embark on a branding strategy for marketing purposes.

However, some financial assistance has trickled in. For example, during the fiscal year 2005/2006, the Highlands Natural Resource Rural Income Enhancement Project provided funds for LTDC members to attend to the travel trade show, ITB Berlin, in 2006, for advertising costs and the cost of some promotional materials. They have also received some assistance from donors such as the African Development Bank and the World Bank, but donor support is generally inadequate to completely bridge the resource gap. The Corporation needs technical assistance in fundraising if it is to reach its targeted goals. A larger allocation from the MTEC would alleviate resource constraints. The Government should also provide funding or a large subvention for training/capacity-building in fundraising so that the corporation will be more independent. The Corporation could also consider forming agreements with sec-

Figure 17. Share of ownership in Lesotho Sun's equity

Source: Sun International (2011).

tor operators for the joint funding of product campaigns. Lastly, the Tourism (Amendment) Act provides for a tourism levy which is not currently being charged. If that would be implemented then some of the proceeds could go towards the Corporation.

- The LTDC has suffered from staff retention problems. Currently they are operating on a very small staff complement of 52 staff members, and are unable to decentralize their operations so that in every district there could be a tourism information office manned by tourism officers. These officers would preferably be placed in every district to ensure that investors in the districts get immediate support and guidance and to provide the Corporation with information on tourist arrivals for statistics and strategic planning purposes and to organize events in the district.

Ministry of Local Government and Chieftainship^{xxxiv}

Together with the MTEC, the MLG is involved in the designation of TDAs to develop certain identified areas as tourism areas.

Lesotho National Development Corporation^{xi}

This is a parastatal body established by the LNDC Act of 1967 as amended. It is wholly owned by the Government of Lesotho and falls under the MTICM. It is primarily involved in the promotion of manufacturing industries to develop Lesotho's economy. Its role is to promote Lesotho as an attractive investment location for both foreign and indigenous investors. Its mandate does not exclude involvement in tourism development. The most prominent role it is playing is in its stake in the Lesotho Sun Hotel and Casino. The Government (through the MFDP) has a share in the hotel and a representative of the Government sits on the board of the hotel. Figure 17 shows that the Government possesses 36.4 per cent of Lesotho Sun's equity, and another 16.7 per cent belongs to the LNDC. A further 46.9 per cent is owned by the South African company Sun International.

Basotho Enterprises Development Corporation^{xii}

This is a parastatal body under the MTICM. It was created by the BEDCO Act of 1980 and currently operates with a staff complement of 112. It primarily promotes indigenous businesses and entrepreneurship skills. It has an informal cooperative arrangement with the LTDC. However, BEDCO's services are general for all types

of industries and they do not have any programmes or projects specifically targeting the tourism industry. Their impact on tourism growth and development has therefore been minimal. This has been the case because BEDCO does not want to appear to be competing with the LTDC, but merely supporting it. However, much more use could potentially be made of this partnership by creating tourism-specific training in line with the tourism development plans of the MTEC. A written memorandum of understanding should be agreed upon to ensure collaboration and not encroachment upon the LTDC's activities. Adding a tourism dimension would not necessarily detract from BEDCO's other projects.

Various industry associations

There are various associations in each tourism subsector, for example:

- Hotel and Hospitality Association;
- Lesotho Restaurants and Liquor Association;
- Tour Operators Association;
- Caterers Association.

The Lesotho Council for Tourism (LCT)

This was created as an umbrella body of the above associations and to be a mouthpiece of the industry. It was created in 1996 to represent individual sector operators as well as the associations. Its goal was to contribute to the growth and expansion of the tourism industry in Lesotho. However, since its inception, the LCT has been fraught with legitimacy issues. The private sector did not like its top-down approach. It was viewed as government trying to organize the private sector whereas the private sector wanted to organize itself. The Council became ineffective in representing the private sector and rallying cooperation between the Government, operators and communities for tourism development. It lay dormant until the World Bank, through the PSCEDP, attempted to resuscitate it. However, the attempts failed and currently the Council is inactive.

It is recommended that the associations themselves should spearhead the creation of a new LCT that will meet their needs and expectations. Such a Council is needed to improve the dialogue of the private sector with the government. The MTEC and LTDC must know the challenges on the ground before they can devise and implement strategies to grow the sector. The Council is also necessary to lobby financial institutions to provide credit to operators and lobby other relevant institutions to create more favourable business conditions and incentives for investors.

Private Sector Competitiveness and Economic Diversification Project^{xlii}

The PSCEDP is a project funded by the World Bank which began in 2007 and is set to end in June of 2013. Its objective is to stimulate the participation of the private sector in economic development. Any role it plays in tourism development must be instigated by a request from the MTEC or the LTDC.

The role of the PSCEDP in tourism development can be described as follows:

- Developed the Sehlabathebe National Park concession manual;
- Established an online booking system (www.travel-lesotho.com);^{xliii}
- Assists tourism sector operators with investment promotion;
- Engaged a consultant to help MTEC develop a tourism strategic plan, as yet unimplemented. It aims to actualize the contents of the National Tourism Policy.
- Engaged a consultant who will help with the implementation of the grading system;
- Will help MTEC automate its licensing system and link it with the OBFC.

Operators are also helped directly (for example, through the LEAP or for funding to attend training).

6. Policy measures

National Tourism Policy

Lesotho has a National Tourism Policy that dates back to December 2000. It was formulated with technical assistance from the UNWTO. The key objectives of tourism development are provided as being poverty alleviation, employment creation and economic growth.

Areas of effectiveness

The Policy realizes the importance of buy-in from the private sector and members of communities in and around the country if it is to be successful. The Government's role is to be that of a facilitator, coordinator, regulator and monitor of tourism and is to stimulate and promote the industry, while the role of the private sector is to drive tourism growth and development.

There is a strong thread throughout the Policy of avoidance of mass tourism in place of quality tourism. The strategy is to attract tourism but not to the detriment

of the culture and values of the people and of the environment. It contains the catchphrase "tourism that is sustainable and responsible". The Policy recognizes not only the economic but also social and environmental objectives of tourism growth and expansion. The Policy prioritizes the promotion of both domestic as well as foreign tourism. Tourism cannot grow sustainably if it is wholly dependent on foreign tourists.

There is also focus given to tourism for the economic upliftment of the poor, especially the marginalized unskilled, rural communities and women in tourism initiatives. This is in recognition of the country's particular economic structure, in which most of the population inhabit the rural areas, the majority are women and they tend to be unskilled or semi-skilled. There is thus a direct correlation between the Policy and practical challenges that can be observed on the ground.

There are stipulations that Lesotho should partner with South Africa and other neighbouring states in tourism development; for example, to eliminate delaying and cumbersome border procedures. Because of the inter-connectedness of today's world, tourism development can never take place in isolation. The LRA and its South African counterpart, the South African Revenue Service, meet on a regular basis to discuss border impediments and possible cooperation to reduce them.

Areas of weakness

The Policy does not address some of the other potential negative social costs of tourism, for example, sex tourism. It also ignores the potential for regional tourism opportunities. The policy does not tackle the problem of the mushrooming of similar types of establishments offering the same types of services, thereby compromising diversification. Furthermore, it is somewhat limited in its scope of the notion of tourism. For example, it concentrates more on cultural tourism (that is, tourists coming to enjoy the culture and historical resources of the country) and sports tourism (such as the High Altitude Sports Training Centre) but not other types of tourism, such as medical tourism, which are also potential areas for development. South Africa has spearheaded the development of medical tourism in the region. Tourists can combine medical and cosmetic procedures with activities such as safaris. Lesotho should also consider marketing itself as a destination for receiving medical treatment within a serene environment for recuperation and other tourism activities. However, it will have to address issues such as the upgrading of hospitals and clinics, building

medical facilities in vacation settings, and securing the international accreditation of medical professionals.

In addition to this broad policy framework, there is an urgent need to implement the Tourism Strategic Development Plan. Tourism developments that have taken place in Lesotho have been largely uncontrolled and with little consideration of how they fit into the overall framework.

C. REGULATION OF SECTOR OPERATORS

There are some instances where regulation may hinder operations to the detriment of sectoral growth.

1. Laws and regulations on licensing activities

Accommodation, catering and tourism services

The Accommodation, Catering and Tourism Enterprises Board issues licences for these establishments. The Board travels throughout the districts to deal with licensing applications. There are no corporate restrictions or requirements that the licensee be locally incorporated. Licences are transferable and may be suspended or terminated. The Board also investigates and determines complaints relating to licences and recommends minimum requirements for establishments to the Minister of the MTEC.

Establishments selling alcoholic beverages

They are licensed by the Liquor Licensing Board. The applicant must be a holder of a licence under the Accommodation, Catering and Tourism Enterprises Act. The licence is valid for one year from the date of issue and may be cancelled by the Board.

Casinos

An application for authorization to establish and operate a casino is made to the Casino Board. There is a restriction that the applicant may only be a company. Approval for authorization is dependent upon proof that the applicant has the requisite financial means to develop the casino industry in Lesotho and that the directors are persons of integrity. After authorization, the applicant applies for a licence. It is provided that no person shall be granted a casino licence for slot machines unless that person operates

a hotel with not less than 100 accommodation units and, furthermore, that no person shall be granted a casino licence for slot machines and tables unless the person operates a hotel with not less than 200 accommodation units. This appears to be rather arbitrary and unnecessarily restrictive. Complaints concerning authorizations and licences are to be directed to the Minister of MTEC. The applicant may also apply for a review of the decision of the Board or of the Minister before the High Court within thirty days of the decision. Where authorization and licence has been granted, it shall be valid for a period of ten years. Authorizations and licences are not transferable and either may be revoked by the Board.

Lotteries

Tenders are published for the issuance of a licence to run a private lottery. Not more than one licence can be issued for a non-state lottery at any one time. The Minister of the MTEC may approve the renewal for a period not exceeding 24 months from the date of expiry. Subsequent renewals may be applied for under the same conditions. The Minister may impose any conditions on the licence holder "as he deems fit" as well as stipulate what fees are to be paid. The Minister may revoke a licence should a promoter fail to comply with any stipulated condition.

Betting

Licences are issued by the Minister of Finance and Development Planning. Licences are valid for periods stipulated on the licence and are not transferable within their validity period. The Minister may revoke such licences. The governing act is overly prescriptive and tedious and may deter participation in the business, especially of small scale operators. More flexibility should be considered in the reporting requirements.

All tourism establishments

It is an offence for a person to carry out an activity listed in the first schedule to the Environment Act unless the person has received EIA clearance from the DOE. All licensing authorities in Lesotho are prohibited from issuing a licence in respect of such activities without the applicant proving they have obtained such clearance. This means, for example, that a hotel cannot be licensed under the Accommodation, Catering and Tourism Enterprises Act unless the hotelier submits to the Accommodation, Catering and Tourism Enterprises Board proof of EIA clearance.

A developer applying for an environmental impact assessment licence must conduct an EIA study and submit the findings in the form of an environmental impact statement to the DOE and relevant line ministry. The study should highlight, inter alia, the environmental impacts of the project and measures to mitigate anticipated adverse effects. The statement is laid open for public inspection and the DOE may invite public comments on it. If the DOE is satisfied that the environmental impact statement is adequate, it may issue an environmental impact assessment licence. The licence is transferable but the Director must be notified of the intention to transfer. Transfer will be effective from the date on which the Director was notified. There are firms in the country which are qualified to conduct EIA studies but these studies are quite expensive. Prices range around M 100,000 and that may be prohibitive for some would-be investors in the tourism sector, especially for smaller-scale projects.

The Act empowers the Ministry to cancel environmental impact clearance should the terms and conditions of the licence not be adhered to. However, the Ministry tends to take a more mediatory approach by engaging the project owner on why she/he may be in breach and trying to enter into dialogue to find solutions that would allow the applicant to comply with the conditions. In general, the cancellation of licences and the stopping of projects is avoided where possible, because the benefit to the economy of the country is understood and appreciated.

D. PARTICIPATION OF FOREIGN SERVICE PROVIDERS

In the tourism sector, there is little discrimination in terms of the treatment of foreign nationals and foreign companies vis-à-vis their domestic counterparts. For example the same guidelines and procedures are applied. Furthermore, there is no tourism subsector in which foreign participation is expressly prohibited. Neither are there any discriminatory aspects in terms of conditions of market access. The rules, regulations and procedures are standardized and do not take cognizance of nationality. Tax rates also apply in an equal manner. Foreign service providers are not subject to different or additional licensing conditions nor to different conditions than domestic suppliers in relation to public service obligations. However, one potential restriction to foreign participation in tourism development is the difficulty in obtaining land ownership rights.

E. TRADE LIBERALIZATION COMMITMENTS AFFECTING THE SECTOR

Under the GATS, Lesotho has undertaken trade liberalization commitments under tourism and travel-related services in three categories: (a) hotels and restaurants, including catering; (b) travel agencies and tour operator services; (c) tourist guide services.

The commitments for the categories of hotels and restaurants and of travel agencies and tour operator services largely keep the sectors unbound for all the modes of supply. For tourist guide services, cross-border supply (mode 1) is left unbound, suggesting that Lesotho did not want to allow the provision of such services via ICTs. Meanwhile consumption abroad (mode 2) and commercial presence (mode 3) maintain no limitation and are therefore fully liberalized with the exception of the horizontal commitments^{xiv} which have been described above, and which also apply to all these subsectors.

Tourism services have been identified as one priority service sector for liberalization under the SADC, so Lesotho could certainly decide to move beyond these partial commitments in the regional context as there is scope for deeper liberalization of these sectors. As with other service areas covered by various SADC protocols, the cooperation taking place in relation to tourism education policies, training institutions and tourism standards would serve to facilitate movement of services and service suppliers in the region. Similarly, improvements in the collection and analysis of tourism statistical data through the adoption of a unified system would allow SADC countries to determine themselves with respect to further liberalization options in a more informed manner. Moreover, joint product development and diversification initiatives through private and public cooperation should benefit the region as a whole through the pooling of scarce national resources.

F. TOURISM SERVICES SECTOR: AN ANALYSIS OF STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS

Box 4 highlights a number of strengths, weaknesses, opportunities and threats within the tourism services sector in Lesotho.

Box 4. Tourism services sector in Lesotho – strengths, weaknesses, opportunities and threats
Strengths

- Abundant tourism assets and natural resources, including natural beauty, biodiversity and cultural heritage that support the development of tourism activities.
- Reputation for hospitality and good quality tourism services.
- Strong efforts to overhaul current legislation and replace it with modern, extensive, pro-development legislation.

Weaknesses

- Anti-competitive practices with respect to distribution, transportation and airline services within the sector.
- Limited access of local tourism enterprises to modern technology (particularly information technology and travel distribution systems).
- Deficiencies in infrastructure services relevant to the support environment for tourism enterprises.
- Barriers to entry for new tourism enterprises, particularly in terms of difficulties to secure access to finance from financial institutions (which see the tourism sector as risky).
- Lack of basic education and vocational training in customer care and service quality.
- Presence of poor employment conditions in the sector.
- Outdated legislation and regulations and a lack of specific legislation governing the sector. This includes legislative gaps such as the exclusion of tour operators from regulation.
- General legislation (such as the prohibition of foreign ownership of land) impedes the development of the sector.
- Lack of coordination between relevant ministries and other institutions. This extends to a lack of clarity and agreement on the respective roles and responsibilities of the MTEC and LTDC.
- Lack of incentive framework for tourism investment.
- Lack of full implementation of the Environment Act.
- No grading system for tourism products.

Opportunities

- Scope to diversify Lesotho's tourism product offerings, particularly in terms of expanding ecotourism and the country's offerings in niche tourism products and events-based tourism (such as adventure tourism, water sports, cultural tourism and lifestyle events).
- Similarly, potential to promote Lesotho as a leading destination for business tourism – for instance, as a destination for government meetings, multilateral engagements and conferences.
- Scope to strengthen linkages between the tourism sector and other sectors in Lesotho as a means to promote economic development.
- Potential to develop regional tourism activities and joint marketing efforts as part of SADC regional integration efforts.

Threats

- An over-reliance on the South African tourist markets and a lack of diversification of source markets for tourist arrivals.
- Restrictions in the form of market access controls for hotels and restaurants, which may constrain investment. In the case of hotels, for example, market access is only guaranteed for hotels that exceed a certain size in terms of numbers of rooms. Smaller hotels are required to undergo an economic needs test.
- Threat of economic leakage, whereby financial benefits from tourism in Lesotho are not being kept within the country.
- Possible negative social effects associated with the growth of the sector, including human trafficking, and disruption or relocation of local communities.
- Possible negative environmental effects stemming from expanding tourist activities, including harm to natural resources and sensitive ecosystems. These are exacerbated by the fact that tourism development requires high water and energy usage.
- Vulnerability of the sector to decreased demand associated with global economic slowdowns, epidemics, natural disasters and terrorism.
- Insufficient institutional capacity to implement tourism reforms.
- Institutional weaknesses within the LTDC.
- Competition from South Africa for tourist arrivals.
- Conflict between multiple institutions claiming a tourism development mandate in certain areas.

Source: UNCTAD, based on interviews with stakeholders, research and literature review.

SERVICES POLICY REVIEW



VI

RECOMMENDATIONS

The recommendations outlined below stem from the findings drawn from the desk research and consultative engagements with key stakeholders (stakeholder interviews, the first National Stakeholder Workshop held in Maseru on 29–30 September 2011 and the second National Stakeholder Workshop held in Maseru on 19–20 January 2012) that underpinned the development of this Lesotho SPR. The recommendations are separated into a series of general recommendations applicable to the services sector as a whole, and sector-specific recommendations for each of the financial services, professional medical services and tourism service sectors.

A. CROSS-SECTORAL RECOMMENDATIONS

Several broad recommendations are made below that are designed to strengthen the services sector in Lesotho and boost the positive impact that trade liberalization and reforms can have in the sector.

The Government of Lesotho needs to develop a national services development strategy plan: The plan should focus on identifying ways to maintain and enhance the performance of specific service sectors within the economy. For a national services development strategy to be effective, it must not only look towards ways to support the development and/or expansion of new service sectors, but also examine those sectors which are already successful and identify ways to maintain and enhance their performance.

There is a need to investigate ways to improve infrastructure services that support the services sector: This is particularly urgent in the areas of transportation, electricity, water and information and communications technology infrastructure, where much-needed improvements are necessary in order to enhance the supporting environment for the provision of services in Lesotho and attract FDI into key service sectors in the country. Innovative financing models and the potential for public–private partnerships should be explored as means to fund investments to improve key infrastructure services. The MTICM will have to liaise with the Lesotho Water and Sewerage Company, the Lesotho Electricity Corporation, the Ministry of Public Works and Transport as well as the Lesotho Telecommunications Authority to seek coordination between all stakeholders in projects to improve the provision of infrastructural services.

Ways should be explored to boost the employment creation impact of the main service sectors in Lesotho: At present, relative to the dominant contribution of services to GDP in Lesotho, the contribution of most key service sectors remains relatively low in the context of total employment in the country. With this in mind, greater attention should be given to government policies, strategies or initiatives to boosting the employment creation potential of the country's main service sectors.

There is need for competition law and a competition authority in Lesotho: Presently, there is no competition policy, but there is a draft Competition Bill (2011) by the MTICM. The regulation of anti-competitive behaviours by companies is integral to a well-functioning market.

Similarly, there is need for a comprehensive investment code if investment into service sectors is to be encouraged: At present there is neither an investment policy nor investment law on either the promotion of domestic or foreign investment and this has hampered the attraction of investment across all sectors. The responsibility falls on the MTICM to increase efforts to actualize the creation of these policies and laws.

There is a need to improve Lesotho's business climate in order to encourage investment: The improvement of the business climate has, to some extent, been addressed by the formation of the OBFC, housed in the MTICM. The centre aims to achieve increased numbers of businesses, increased exports and investment, reduced turnaround times, reduced costs of conducting business, as well as reduced numbers of registration procedures. Its tasks are issuing trade licences, industrial licences, export visas, import rebates, work permits, residence permits, company registration and tax registration. However, what is needed in addition to the OBFC is the implementation of the new Companies Act (2011). The provisions of the Act simplify incorporation, allow for the formation of sole proprietorship businesses, and allow for the electronic submission of company documents for registration. It eases company registration and operation. The Act was intended to come into operation in October 2011 but there have been delays and it remains inoperative. The MTICM must continue to do all that is necessary to expedite the coming into force of the Act. At the same time, greater attention should be given to efforts to eliminate red tape and simplify regulatory processes and procedures in order to reduce the cost of doing

business in Lesotho and make it simpler, faster and easier to operate and grow businesses within the country's service sectors.

Greater use must be made of district bodies, authorities and structures in the promotion of tourism, monitoring and evaluation of health professionals, and provision of financial services:

Most institutions that are involved in the promotion of the growth and development of financial, tourism and medical services are centralized in Maseru. In its current state, the impact of such a centralized system is limited. The relevant ministries (MTEC, MOHSW and MFDP) must strategize on how to decentralize the provision of their services. The same argument could apply to making better use of the regional setting in terms of advancing strategies and implementation of ongoing initiatives that may have a positive impact in strengthening regulatory and institutional frameworks underpinning services trade.

The trade liberalization strategy of Lesotho should focus on securing access to other markets as Lesotho's market is already open to foreign services:

Trade liberalization has been pursued, and continues to be pursued, in the quest to develop the country's services industries. However, the reality has been that Lesotho has not gained much tangible benefit from years of trade liberalization. This is because liberalization alone is not sufficient to develop an economy. There should also be focus on factors such as the business climate, social and political stability, regulatory predictability, and the quality of institutions. These can determine whether much needed investment is attracted for the benefit of growing the economy. Moreover, as in the three sectors analysed in this report, Lesotho still faces supply-side constraints. Policymaking should focus mainly on the development of competitive capacities. Wherever possible, regional cooperation in the SADC context should be used to support such capacity-building efforts. Also, given the country's scarce human, financial, institutional and other resources, these efforts should be developed in the context of a national services strategy of services trade policy which identifies, inter alia, a priority matrix of exportable service products and of target export markets.

Despite the new Land Act (2010) and its efforts at improving security of tenure for foreign nationals, there is still room for improvement: Under the Act, leases for commercial sites are 60 years. It would be more attractive for potential investors if leases could be valid for 90 years in order to encourage long-term investment. However, this is one example of

where the Government of Lesotho seems to prioritize heeding social and cultural sensitivities regarding land ownership over the objective of potentially attracting foreign investment.

Improvement is needed in the processing of work and residence permits:

Delays in the processing of these permits negatively affect the potential growth of all sectors of the economy. The OBFC currently provides a one stop shop where investors in the manufacturing industries can apply for all their permits under one roof and in an expedited manner. For example, many foreign medical professionals have pointed at delays in the processing of permits as one factor that dissuades them from prolonging their stay in Lesotho. The MOHSW might consider dialogue with the OBFC on whether foreign medical professionals could also be included in the access to their services. However, the MTICM would have to assist the OBFC with more space and staff members and funding were it to expand its service provision to further categories of people.

In addition, a number of sector-specific recommendations should be considered. These are outlined separately below in the case of each of the financial services, professional medical services and tourism service sectors.

B. FINANCIAL SERVICES SECTOR RECOMMENDATIONS

More detailed and up-to-date data on the financial services sector in Lesotho need to be collected and publicized:

There is an urgent need to collect and publicize up-to-date, sector-specific information on the economic contribution of the financial services sector in Lesotho. In this respect, the focus in data collection efforts should include the following areas:

- The output of the financial services sector as a share of total services output;
- Growth rates of output in the financial services sector;
- The total value of output in the insurance subsector;
- Total employment in the financial services sector and growth rates of employment in the sector;
- Total employment in the following subsectors:
 - Public financial institutions;
 - Commercial banks;

- Development corporations;
- Insurance companies;
- Informal financial institutions;
- The total value of imports and exports in the financial services sector and in the following subsectors:
 - Public financial institutions;
 - Commercial banks;
 - Development corporations;
 - Insurance companies;
 - Informal financial institutions;
- Growth rates of imports and exports for the financial services sector as a whole as well as for the following subsectors:
 - Public financial institutions;
 - Commercial banks;
 - Development corporations;
 - Insurance companies;
 - Informal financial institutions;
- Inward flows of FDI into the Lesotho financial services sector.

There is a need to develop appropriate financial policies to guide the development of the financial services sector: Many Acts have been created in the absence of policies. Legislation is supposed to be based on policy so that the legislation advances policy objectives. It becomes difficult to ascertain whether laws are doing what they are supposed to be doing in the absence of policy instruments. Furthermore, there is a need to develop policies on microfinance and on consumer protection because these areas can become subject to legislative intervention.

Improvement is required in access to both formal banking and non-banking financial services in the rural areas of Lesotho: While the level of financial inclusion is relatively high in Lesotho (estimated at 81 per cent), much of this is concentrated in the country's urban areas. The levels of access to financial services in Lesotho's rural areas are considerably lower, particularly with respect to banking services, meaning that rural communities in the country are disadvantaged in accessing financial services.

It is necessary to increase competition and lending in Lesotho's commercial banking sector: At present, Lesotho's commercial banking sector is dominated by a small number of South African banks.

In this respect, there is a need to raise the level of local ownership within the country's commercial banking sector. At the same time, there is a need to raise the level of lending by Lesotho's commercial banking sector through, for example, efforts to raise the credit to deposit ratio among the country's commercial banks.

Procedures need to be simplified for SMMEs to access finance and credit facilities in Lesotho:

Currently, many SMMEs in Lesotho, particularly in the tourism sector, struggle to access much-needed finance as they are considered to be risky by the country's commercial banks. Within this context, there is a need to implement improvements to existing arrangements for loan management and repayment mechanisms for SMMEs operating in Lesotho.

C. PROFESSIONAL MEDICAL SERVICES RECOMMENDATIONS

More detailed and up-to-date data need to be collected and publicized on the professional medical services sector in Lesotho: There is an urgent need for the MOHSW and the councils to collect and publicize up-to-date, sector-specific information on the economic contribution of the professional medical services sector in Lesotho. At present, much of the available information is grouped together under the broader health and social work sector. Consequently, the focus in data collection efforts should include the following areas:

- The value of the total national supply of professional medical services;
- The value of output of professional medical services as a share of total services output in Lesotho;
- Total employment in the professional medical services sector and its constituent subsectors;
- Growth rates of output and employment in the professional medical services sector;
- The value of imports and exports in the professional medical services sector and its constituent subsectors;
- Inward flows of FDI into the sector.

The MOHSW should urgently approve and implement its retention strategy to avoid the exodus of health care professionals out of the country: Most professionals would prefer to stay in Lesotho, but it is the working conditions and lack of

incentives that cause them to seek greener pastures elsewhere. Greater access to training and bursaries, improved infrastructure in health care facilities and more competitive salaries would go a long way towards slowing down the emigration of health care professionals.

Similarly, there is a need to increase the number of medical professionals in Lesotho: This should be addressed by the MOHSW in conjunction with the Ministry of Education as well as the MFDP as it will involve the participation of the NMDS to provide scholarships and bursaries. The establishment of a medical school should be prioritized. With respect to nurses, in particular, there is a need for more training institutions which offer high level qualifications. In the short term, consideration could also be given to utilizing the services of retired medical professionals in the country on short-term contracts to boost capacity in terms of the supply of health care services.

There is a need to increase the presence of medical personnel in the country's rural areas: In this respect, consideration should be given to the MOHSW and CHAL incentives, such as rural allowances to entice medical professionals to work in the rural parts of the country. In addition, a community service requirement could be introduced for Lesotho's doctors to practice in rural areas as part of their training to become registered medical professionals. At the same time, there is a need to improve access to healthcare facilities and services in rural areas in Lesotho. This could be achieved, for example, by abolishing user fees charged to the poor for health services at all health centres operated by the Government and CHAL (fees are internationally known to dissuade the very poor from utilizing health services).

Lesotho should continue to seek and form partnerships with other countries so as to attract health professionals from those countries to work in Lesotho: It has been noted by the WHO that there is an inadequate supply of health professionals in Lesotho, a gap which could be bridged by an influx of health professionals from other countries. However, there should be no discrimination in terms of the hiring and remuneration of such foreign professionals vis-à-vis local professionals. This should be spearheaded by the MOHSW.

The institutions responsible for the registration and monitoring of medical professionals in the

country (the Nursing Council and the Medical Council) should be capacitated: The powers of these two councils are being enhanced by legislative amendments, but they also require practical support in terms of staff, office space, transport and training in order to enable them to better discharge their duties. There is only one registrar and one secretary in both institutions. It is not possible for them to register, monitor and deal with complaints and other issues with such a small staff complement. Neither institution currently receives government subvention for their operations. The MOHSW must consider channelling part of their budgetary allocation to meet the resource needs of these institutions so that they can more effectively contribute to professional development.

D. TOURISM SERVICES SECTOR RECOMMENDATIONS

Collect and publicize more detailed and up-to-date data on the tourism services sector in Lesotho: There is an urgent need to collect and publicize up-to-date, sector-specific information on the economic contribution of the tourism services sector in Lesotho. In this regard, the focus in data collection efforts should include the following areas:

- Output of the tourism sector as a share of total services output in Lesotho;
- Total output and employment by tourism services subsector;
- The share of local versus foreign employment in the tourism services sector and its constituent subsectors;
- The share of Basotho nationals holding management positions in the sector;
- The total value of tourism services sector imports and exports and by tourism services subsector;
- The value of inward flows of FDI into Lesotho's tourism services sector.

The MTEC should consider use of the Tourism Satellite Account.

There is need for Lesotho's tourism policy to include a focus on potential negative externalities associated with the expansion of the tourism sector: The current tourism policy focuses on preventing negative impacts on culture due to tourism

expansion. However, other potentially negative attendant costs of such expansion are largely ignored, such as sex tourism and human trafficking. These must be included when the MTEC revises the current policy.

Tourism policy should include the pursuit of a joint development agenda between Lesotho and South Africa on a formal basis: South Africa has experienced a boom in the number of tourists, with 9.9 million visitors in 2009. Lesotho, through the MTEC, should seek greater cooperation in order to benefit from tourists visiting South Africa. Another potential benefit would be knowledge transfer and potential technical assistance to grow Lesotho's tourism industry. Partnerships should be forged at the macro as well as micro level. For example, there should be partnerships between Lesotho sector operators and their South African counterparts. More broadly, efforts should be made to expand regional linkages with the tourism sectors of neighbouring countries and to prioritize joint marketing efforts for Southern Africa as a tourist destination. The Agreement on the Facilitation of Cross-Border Movement of Citizens (2009) between South Africa and Lesotho should be expeditiously implemented to avoid the possibility of the movement of tourists leaving room for the cross-border movement of criminals.

There should be a deliberate policy on maximizing the poverty alleviation benefits of tourism development: This should encourage partnerships between tourism establishments and communities. Tourism development should lead to locals benefitting from employment opportunities, a market for their products or even equity shares in establishments. In addition, there is need for incentive-based policies that encourage tourism industries, such as hotels and restaurants, to purchase supplies locally as well as to strengthen linkages between tourism and other sectors of the economy. This should be addressed by the MTEC.

It is necessary to undertake detailed research and analysis into the existing linkages between the tourism services sector and other sectors of the Lesotho economy: The focus in this respect should be on the extent to which the tourism services sector has contributed to the growth of sectors such as construction, agriculture and retail, as well as the current levels of consumption of financial, recreational, cultural and security services by tourists in Lesotho. The research effort could be undertaken jointly by the MTICM and the LTDC.

Attention should be given to developing and strengthening supply chain linkages between multinational tourism enterprises and local suppliers of tourism-related products and services in Lesotho: Linked to this, efforts should be made to create opportunities for mentoring and technology and skills transfer from multinational tourism enterprises to local enterprises operating in the sector. Viable industry associations would help in this effort.

The MTEC should address the human resource constraints that are limiting tourism development in Lesotho: Education needs must be addressed in collaboration with the Ministry of Education and Training. Training and skills development initiatives for SMMEs operating in the tourism sector should also be prioritized, with these initiatives focusing on the development of business management, marketing and technical skills. Aligned to this, there is a need to improve the level of coordination of existing institutions providing training to tourism SMMEs in the country. Tourism has been touted as an industry which is favourable for least-developed economies to pursue, because it is not highly skills dependent. However, this does not mean that the sector would not benefit from policies on skills development in order for sector operators to be capacitated with knowledge and skills that meet industry needs. Tourism qualifications should be created at the formal level. In addition, institutions such as BEDCO could be strengthened to provide specific training to the sector and, ultimately, increase the quality of tourism services. This may increase the likelihood of visitors having longer stays as well as returning and recommending Lesotho as a tourist destination. Training and skills promotion can also potentially affect investment promotion. Investors are attracted to an environment where potential labourers possess skills that they need. Through training, locals can learn entrepreneurial skills to enable them to participate in the industry, as well as being better equipped to deliver certain services such as catering, tours, arts and cultural services.

An incentive framework might improve investment in tourism: Such incentives could include, for example, reduced tax rates for tourism enterprises, similar to those that exist for manufacturing industries. The MTEC must propose and motivate the MFDP for such a tax policy to be implemented in Lesotho.

The development of the tourism sector requires a broad, multi-sectoral approach: Coordination is required between the MTEC and other ministries and

institutions. This can also help tourism development to serve as a catalyst for overall economic development. For example, coordination with the Ministry of Agriculture and Food Security could be enhanced to encourage the creation of programmes to assist agricultural producers to expand the quantity, quality and reliability of their produce so that it can be consumed by tourism establishments. In this way, the current leakages that are taking place, whereby most produce is imported into the country from South Africa, could be reversed. Collaboration is also required with institutions such as the electricity and water authorities (Lesotho Electricity Corporation and the Water and Sewerage Company, respectively). All stakeholders should have a forum for information sharing and joint planning so that all of their initiatives correlate.

Supporting infrastructure for tourism, particularly in terms of airport transport infrastructure and services, ports and roads as well as basic services, needs to be developed and scaled up: In the case of transport infrastructure, a greater level of coordination is required between the MTEC and the MPWT for the development of road infrastructure in areas identified for tourism development. According to 2007 statistics, only 58 per cent of roads were paved at that time,¹⁰⁹ yet most tourists in Lesotho travel by road. Coordination to boost infrastructural development is also needed between institutions responsible for water and electricity supply. This would not only benefit the tourism sector but also the lives of the Basotho people more generally.

There should be dialogue between the LNDC, BEDCO and LTDC so as to expand their role in tourism development and determine in which areas cooperation could be viable: At this stage, neither the LNDC nor BEDCO have tourism-specific programmes, yet both organizations are empowered in their governing legislation to participate in tourism development. Cooperation agreements with the LTDC should guide collaboration. However, the expansion of the role of LNDC and BEDCO in tourism will depend on their financing and staff capacity limitations being resolved. They both fall under the mandate of the MTICM, which is the proper body to address those issues.

Memoranda of understanding should be drafted between the LTDC and other tourism promotion institutions so that they can work harmoniously with the LTDC to develop the tourism industry:

At present there are other institutions in Lesotho that purport to have a tourism promotion mandate and they sometimes encroach upon the work of the

LTDC, hampering its work. For example, the Lesotho Highland Development Authority believes that it is solely responsible for promoting tourism in its project areas.

Lesotho's existing tourism legislation needs to be brought up-to-date and gaps filled. For example, there must be legislation governing tour operators: Leakages can be reduced by strengthening the legal capacity of tour operators to provide their services in Lesotho. The MTEC is currently involved in an extensive legislative overhaul.

There should be full implementation of the Environment Act in Lesotho: Such implementation of the Act is necessary because the institutions and procedures provided therein are important to ensure that tourism and other developments do not take place in a way that damages the natural environment, which remains a key asset for Lesotho. The MTEC must take steps to address delays in the full implementation of the Act.

If tourism products are to be effectively marketed then they should be subjected to objective quality assessment, preferably by reference to international standards: It would be important for the Grading Manual to be speedily passed and implemented and an institution established to execute this process. The MTEC must address the human resources and institutional constraints to the implementation of the manual.

Clarity is required on the respective roles and responsibilities of the MTEC, on the one hand, and the LTDC on the other: At present, the LTDC is overburdened with tasks under the Tourism Act, whereas it should be concentrating on the development and marketing of tourism products. Greater clarity in terms of roles and responsibilities would eliminate the potential for any confusion, duplication of efforts and gaps in tourism service delivery. In this respect, the following role-sharing mechanism is proposed (to be agreed upon by the MTEC and LTDC):

- The MTEC should be responsible for policy formulation and the development of a sound legal framework to develop the sector. This means that it should concentrate on tasks (a), (j) and (m) in the Tourism Act.
- The LTDC should focus on being the implementing arm of the MTEC. It should be solely responsible for tasks (b), (c), (d), (e), (h), (i), (k) and (l) in the Tourism Act.
- There are other functions that are suited for collaboration between the Ministry and the Corporation. These are (f), (g) and (m).

- The last function in the Act, (n) – grading, and classifying accommodation, liquor, and tourism-related establishments – should be undertaken by a separate institution that should be created: a grading council akin to the Tourism Grading Council of South Africa. This is a body which is comprised of 20 members drawn from the sub-sectors of the tourism industry: hotel industry, bed and breakfast establishments, the airline industry, tour operators, travel agencies and game lodges. It is responsible for implementing the grading system, which at present is voluntary, but which provides incentives for participation, such as marketing benefits.

There is a need to empower industry associations to play a more prominent role in the development of sector operators: Currently, the Hotel and Hospitality Association, the Lesotho Restaurants and

Liquor Association, the Tour Operators' Association and the Caterers' Association are all in place in Lesotho. However, these associations are generally not very active and a strategy is necessary to address how they can be empowered to better serve their members. In addition, the LCT, which was the umbrella association that was meant to empower operators in terms of organizing themselves, accessing finance, lobbying for government assistance and facilitating improvements to the business environment, has crumbled. It would be beneficial from a sectoral development perspective if the MTEC addressed the resuscitation of the LCT so that sector operators were able to contribute more fully to tourism development. This may require donor assistance but, fortunately, the PSCEDP (which is funded by the World Bank) still prioritizes assistance to develop the tourism industry and has, in the past, been keen to work to help revive the LCT.

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ANNEX I

Inventory of laws and regulations affecting tourism, financial and professional medical services

Tourism services

Legislation

1. Tourism Act No. 4 of 2002
2. Tourism (Amendment) Act No. 1 of 2006
3. Accommodation, Catering and Tourism Enterprises Act No. 13 of 1997
4. Liquor Licensing Act No. 8 of 1998
5. Casino Order No. 4 of 1989
6. Lotteries Act No. 10 of 1975
7. Betting Control Act No. 21 of 1975
8. Lesotho National Development Corporation Order No. 13 of 1990
10. The Pioneer Industries Encouragement Act No. 19 of 1969
11. Environment Act No. 10 of 2008

Regulations

1. Accommodation, Catering and Tourism Enterprises Regulations No. 4 of 1999
2. Liquor Licensing Regulations No. 5 of 1999
3. Casino Regulations No. 146 of 1990
4. Betting Control Regulations No. 5 of 1976

Financial services

Legislation

1. Central Bank Act No. 2 of 2000
2. Financial Institutions Act No. 6 of 1999
3. Insurance Act No. 18 of 1976
4. Money Lenders Order No. 25 of 1989
5. Money Lenders (Amendment) Act No. 6 of 1993
6. Societies Act No. 20 of 1966
7. Cooperative Societies Act No. 6 of 2000

Bills

1. Draft Financial Institutions Bill
 2. Draft Insurance Bill 2010
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Regulations

1. Financial Institutions (Branching Requirements) Regulations. Legal Notice No. 135 of 1999
2. Financial Institutions (Loan Portfolio Classification) Regulations. Legal Notice No. 112 of 1999
3. Financial Institutions (Risk-Based Capital Requirements). Legal Notice No. 111 of 1999
4. Financial Institutions (Lending Limits) Regulations. Legal Notice No. 112 of 1999
5. Financial Institutions (Loan Portfolio Classification) of 1999
6. Financial Institutions (Cover Prescription Regulatory) (Money Lenders) of 1999
7. Financial Institutions (Foreign Currency Exposure Limits) Regulations. Legal Notice No. 19 of 2000
8. Financial Institutions (Internal Control Systems) Regulations. Legal Notice No. 132 of 2000
9. Financial Institutions (Internal Control Systems) Regulations. Legal Notice No. 198 of 2000
10. Anti-Money Laundering Guidelines. Legal Notice No. 199 of 2000
11. Financial Institutions (Liquidity Requirements) Regulations. Legal Notice No. 200 of 2000
12. Financial Institutions Minimum Loan Assets Requirement of 2000
Central Bank of Lesotho (Collective Investment Schemes) Regulations. Legal Notice No. 7 of 2001
13. Financial Institutions (Liquidity Requirements Amendment No. 1) Regulations. Legal Notice No. 50 of 2001
14. Trading in Government of Lesotho Treasury Bills Regulations. Legal Notice No. 34 of 2001
15. Financial Institutions (Minimum Local Assets Requirements) (Amendment) Regulations of 2002
16. Financial Institutions (Foreign Currency Exposure Limits) (Amendment) Regulations. Legal Notice No. 112 of 2002
17. Financial Institutions (Ancillary Financial Service Providers) (Licensing Requirements) Regulations of 2003
18. Financial Institutions (Merger and Transfer of Assets and Liabilities) Regulations of 2004
19. Financial Institutions (Conduct of Business by Branch) Regulations of 2005 (Local Loans)
20. Trading in Government Treasury Securities (Regulations). Legal Notice No.49 of 2009
21. Companies Act 2011

Professional medical services

Legislation

1. Public Health Order No 12 of 1970
2. The Medical, Dental and Pharmacy Order No. 13 of 1970

Regulations

1. Medical, Dental and Pharmacy (Degrees) Regulations. Order No. 3 of 1972
 2. Medical, Dental and Pharmacy (Degrees) (Amendment) Regulations. Order No. 12 of 1972
 3. Nurses and Midwives Act of 1998
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ANNEX 2

Inventory of sector operators – financial services

Banks

Standard Lesotho Bank Ltd (15 branches)

Nedbank (Lesotho) Ltd (3 branches)

First National Bank of Lesotho (1 branch)

Lesotho Post Bank (13 branches)

Insurance companies

Lesotho National General Insurance Company

Lesotho National Life Assurance Company

Alliance Insurance Company Ltd

Metropolitan Insurance Company

Sentinel Insurance Ltd

Prosperity Insurance Company

Insurance brokers

AON Lesotho (Pty) Ltd

Insurcare Brokers (Pty) Ltd

Lesotho Insurance Brokers (Pty) Ltd

ABC Insurance Brokers (Pty) Ltd

Thaba-Bosiu Risk Solutions (Pty) Ltd

BMM Insurance Brokers (Pty) Ltd

Setha Insurance Brokers (Pty) Ltd

MOTS Insurance Brokers (Pty) Ltd

Universal Insurance Brokers (Pty) Ltd

Du Pree Liebetrau Holdings (Pty) Ltd

Insurance Consulting (Pty) Ltd

Prosperity Insurance Brokers (Pty) Ltd

Moneylenders

There are 51 moneylenders in the country. Twenty-four are institutional and 27 are private individuals.

ANNEX 3

Fees for residence and work permits^{xiv}

Residence permit

Temporary permit for 90 days	M 1,000
Renewal of temporary permit	M 1,000
Application for residence permit	M 1,500
Residence permit	M 2,000
Renewal of residence permit	M 2,000
Indefinite permit	M 20,000
Late renewal of any permit per week or part thereof	M 200

Work permit

First application	M 750
Renewal	M 1,000
Issuance of card	M 70

ANNEX 4

Lesotho's schedule of horizontal commitments under GATS^{xlvi}

Mode of supply

1. Cross-border supply
2. Consumption abroad
3. Commercial presence
4. Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment
All sectors included in this schedule	(1) None	(1) None
	(2) None	(2) None
	(3) Foreign-owned enterprises, including joint-venture enterprises, must satisfy minimum capital outlay and foreign equity requirements (wholly foreign-owned company: minimum equity capital outlay of \$200,000; joint-venture: \$ 50,000).	(3) None
	4) Automatic entry and work permits for up to four expatriate senior executives and specialized personnel. Approval required for any additional workers. Enterprises must also provide training in higher skills for locals.	(4) None

ANNEX 5

List of interviewees

Dr. Mpolai Moteetee	Director General, Health Services
Mrs. 'Majoel Makhakhe	Director, Health Planning and Statistics, MOHSW
Dr. Thin	Research Manager, MOHSW
Mr. Molupe Mats'umunyane	Health Systems Strengthening Manager, MOHSW
Mr. Phakiso Sealiote	Head, Legal Division, MOHSW
Mr. Sehlabaka Ramafikeng	Head, Research and Development, LTDC
Ms. Mamello Morojele	Acting Head, Investment Promotion, LTDC
Ms. Mats'eliso Lehohla	Principal Legal Officer, MTICM
Ms. Mpho Makhabane	Legal Officer, MTICM
Ms. Nthabiseng Ts'ehlo	OBFS, MTICM
Mr. Thato Mohasoa	Head, Public Relations, CBL
Mrs. Ntee Bereng	Head, Non-Banks Supervision Division, CBL
Mr. Sempe Moshoeshoe	Senior Legal Officer, MTEC
Ms. Mamello Mahloane	Tourism Officer, MTEC
Ms. Tihobohano Matela	Environment Officer, DOE
Ms. Tlalane Ramaema	Environment Officer, DOE
Mrs. Sekone Masia	Senior Economist, MOFDP (Regional Integration Directorate)
Mrs. 'Marosina Foloko	Enterprise Development and Promotions Manager, BEDCO
Dr. Tinashe Chinyanga	Medical Director, ALAFA
Dr. Hlasoa Mopeli	Medical doctor
Dr. Thelejane	Dentist
Dr. Musi Mokete	Medical practitioner
Ms. Tentenkie Mohapeloa	Registrar, Medical Council
Mrs. Kuenia Thabane	Lecturer, Faculty of Law, National University of Lesotho
Mr. Realeboha Mathaba	Head, Litigation, LRA
Ms. Bernadette Sehapi	Chief Legal Officer, MFDP
Mrs. 'Makali Nathane	LEAP Manager, Private Sector Competitiveness and Economic Diversification Project
Mrs. 'Mamohapi Poka	Registrar, Nurses' Council
Mrs. 'Maposholi Qhobela	Senior Immigration Officer, MOHA
Mr. Pelesane Moerane	Bureau of Statistics
Mrs. Botsoa Hloaele	Bureau of Statistics
Ms. Lerato Makana	Bureau of Statistics
Mr. Tlohelang Aumane	Director, OBFC
Mrs. Lerato Mohlakori	Human Resource Officer, CHAL
Mrs. 'Mantela Hloaela	Finance and Administration, Thaba Bosiu Risk Solutions (Insurance Broker)
Mrs. 'Mankhethua Boleme	Nurse, National University of Lesotho Clinic
Mrs. Mats'eliso Khotso	Nurse, National University of Lesotho Clinic
Ms. 'Maseeiso Sekhonyana	Manager, Trubute Guesthouse
Ms. Mphielo Maintso	Maluti Travel and Tours
Ms. Ntsoaki Mosepeli	Black Swan Guesthouse
Ms. Puleng Lebitsu	Renaissance Restaurant
Ms. Fumane Maema	Projects Manager, LNDC

ENDNOTES

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- ²⁴ Central Bank of Lesotho
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- i. It is worth noting that the crisis affected the various service sectors in different ways. Demand contracted more in income-sensitive service sectors – including tourism and travel, financial services, construction, retail and services related to merchandise trade, including transport – than in energy, health, education, telecommunications and some business and professional service sectors.
 - ii. For a detailed discussion of the role of the state in promoting economic transformation in Africa, see Economic Commission for Africa (2011). This report highlights that the experiences of successful countries in Asia, Latin America and Africa is to a large extent based on the central role of the state in guiding and promoting successful economic transformation, a role which may require a “developmental state” approach.
 - iii. South Africa, Lesotho, Swaziland, Botswana and Namibia constitute the SACU member states.
 - iv. The loti is pegged to the rand at parity under the CMA agreement, and the rand is legal tender in Lesotho.
 - v. Lesotho’s fiscal year is April–March.
 - vi. Construction services are going to be boosted by the development of the Metolong dam in 2011/2012.
 - vii. Lesotho could export its clothing products to the United States of America market duty and quota free, and was also eligible for derogation from the cumulation provision.
 - viii. Completion of a major hydropower facility in January 1998 permitted the sale of water to South Africa and generated royalties for Lesotho.
 - ix. National MDG report 2012 (draft) cited at <http://www.undp.org.ls/millennium/default.php>.
 - x. National MDG report 2012 (draft) cited at <http://www.undp.org.ls/millennium/default.php>.
 - xi. See <http://www.undp.org.ls/millennium/default.php>.
 - xii. A draft SMME policy, which was developed with the support of the United Nations Industrial Development Organization, was finalized in June 2011 and will be presented to cabinet for approval. The policy targets a number of areas where the current situation constrains the growth of the SMMEs sector. The areas identified for intervention are, (i) enabling legal and regulatory environments (including taxation, licensing, land administration and intellectual property rights), (ii) access to finance, (iii) entrepreneurial training and skills development, (iv) technological development and innovation, (v) infrastructure development and business shelter, and (vi) access to markets. In addition, all actions undertaken as part of the implementation of the SMME policy will take into account the cross cutting issues of gender equality, youth development, HIV and AIDS, disabilities and environmental considerations.
 - xiii. WTO (2003).
 - xiv. See descriptions of the process leading to Lesotho’s Uruguay Round commitments in “Liberalisation of trade in services (Lesotho’s experience)”, presentation by Sekone Masia, Trade Relations Officer, MTICM, 20 February 2008, and C. Manduna (2005), “The challenges facing least developed countries in the GATS negotiations: A case study of Lesotho”, Tralac working paper No. 8.
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- xv. WTO (2009a).
 - xvi. Imani Development (2009), p. 15–16.
 - xvii. It should, however, be noted that there is no automatic link between liberalization commitments and increased foreign competition, as the first round of liberal commitments made by Lesotho has shown.
 - xviii. WTO (2011).
 - xix. The LDC group has put forward two requests, outlining the sectors where they have commercial interests. Both requests emphasize the importance of liberalization of market access for service suppliers which are considered “semi-skilled labour” as opposed to the professional categories normally included in WTO members’ schedules of specific commitments.
 - xx. UN Comtrade.
 - xxi. See http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/africa-caribbean-pacific/index_en.htm. Accessed 20 May 2011.
 - xxii. The stated article prohibits the imposition of new or more discriminatory measures on trade in services.
 - xxiii. This clause can be considered particularly contentious for countries which have not yet developed their services economy and not yet put in place the relevant regulations for the sector, as it would basically imply a freeze in any regulation that could have a discriminatory impact on foreigners.
 - xxiv. The Basotho are a Sotho-speaking people of Lesotho.
 - xxv. The Lesotho Public Service Association that sued the moneylenders had initially lodged their concerns with the CBL for intervention. However, in the process of trying to resolve the matter they became impatient and therefore opened a case in court, without notification of their intention to CBL.
 - xxvi. See www.finance.gov.ls for further information.
 - xxvii. See www.centralbank.org.ls for further information.
 - xxviii. See www.gov.ls/trade for further information.
 - xxix. See FINMARK Trust and GIZ (forthcoming).
 - xxx. Lievens et al. (2008).
 - xxxi. See www.mohsw.org for further information.
 - xxxii. Hospital services are described in the United Nations provisional central product classification as: “Services delivered under the direction of medical doctors chiefly to inpatients, aimed at curing, reactivating and/or maintaining the health status of a patient. Hospital services comprise medical and paramedical services, nursing services, laboratory and technical services including radiological and anaesthesiological services, etc”.
 - xxxiii. The organization’s website is <http://www.ltdc.org.ls/>. The LTDC has an online 2009 Visitors’ Arrival Statistics Report.
 - xxxiv. This refers to the long-term development of the tourism sector in a manner that has a minimal impact on the environment and the local culture in Lesotho, while generating sustainable future employment for the Basotho population.
 - xxxv. A mechanical device showing the number and amount of bets staked on a race to facilitate the division of the total among those backing the winner.
 - xxxvi. A person whose job is to take bets, calculate odds and pay out winnings.
 - xxxvii. See www.gov.ls/tourism for further information.
 - xxxviii. See www.ltdc.org.ls for further information.
 - xxxix. See www.gov.ls/local for further information.
 - xl. See www.lndc.org.ls for further information.
 - xli. See www.bedco.org.ls for further information.
 - xl. See www.psc.org.ls for further information.
 - xl. Generally there is little use of on-line booking systems in Lesotho due to the fear of illegitimate sites. Many sector operators also don’t have either a website or email address, thus potentially frustrating efforts to market themselves globally.
 - xli. These requirements are the following: minimum capital outlay requirements and foreign equity requirements for foreign-owned enterprises; enterprises must be empowered to conclude contracts on behalf of the parent enterprise; automatic entry and work permits are granted for up to four expatriate senior executives and personnel with specialized skills; the enterprises must provide training to locals.
 - xli. Seventh Schedule to the Aliens Control (Amendment of Schedule) Regulations. Legal Notice 40 of 2011
 - xli. GATS/SC/114.
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